

(22,417.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 796.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, AND C. W.  
O'BRIEN, AS GUARDIAN FOR SIEN HAN, APPELLANTS  
AND PLAINTIFFS IN ERROR,

vs.

GREGORIO SY QUIA ET AL.

APPEAL FROM AND IN ERROR TO THE SUPREME COURT OF THE  
PHILIPPINE ISLANDS.

INDEX.

	Original.	Print
Proceedings in court of first instance for the city of Manila.....	1	1
Complaint.....	1	1
Verification of complaint.....	8	5
Summons.....	9	6
Sheriff's return.....	10	7
Appearance for defendant Generoso Mendoza y Sy Quia.....	11	7
Appearance for defendants Mrs. Petronila Encarnacion, D. Pedro Sy Quia, and Juan Sy Quia.....	12	8
Demurrer of Generoso Mendoza Sy Quia to complaint.....	13	8
Answer of Petronila Encarnacion, Pedro Sy Quia, and Juan Sy Quia.....	17	10
Exhibit No. 1—Certificate of baptism of Vicente Ruperto Romero.....	21	13
No. 2—Certificate of marriage of Vicente Romero Sy-Quia and Petronila Singson.....	22	14
No. 3—Certificate of baptism of Apolinaria Ro- mero.....	23	15



	Original.	Print
Exhibit No. 4—Certificate of baptism of Maria Romero..	24	15
No. 5—Certificate of baptism of Gregorio Romero.	25	16
No. 6—Certificate of baptism of Pedro Antonio Sy-Quia.....	26	17
No. 7—Certificate of baptism of Juan Nepomuceno Romero.....	27	18
No. 8—Order of the court of first instance of Quiapo, January 26, 1894.....	28	18
Appearance for defendant Gregorio Sy-Quia.....	30	20
Notice of motion to overrule demurrer.....	30	20
Order overruling demurrer.....	31	20
Answer of defendant Gregorio Sy-Quia.....	31	21
Exhibits A, B, C, and D—(Not set out).....	35	24
Answer of Generoso Mendoza Sy-Quia.....	36	24
Amendment by way of reply.....	40	26
Order to file amendment by way of reply.....	42	28
Answer of defendants Petronila Encarnacion <i>et al.</i> to amended complaint.....	43	29
Answer of defendant Generoso Mendoza Sy-Quia to amended complaint.....	44	29
Suggestion of death of defendant Petronila Encarnacion and motion to continue in name of administrator.....	44	30
Order to continue suit in name of administrator.....	45	30
Stipulation as to taking depositions, &c.....	45	30
Suggestion of death of plaintiff Sy Juiniu and motion to make administrator party.....	47	31
Election of administrator of Sy Juiniu to stand on pleading as filed.....	47	32
Appearance of C. W. O'Brien, administrator of Sy Juiniu.....	48	32
Stipulation as to documentary evidence.....	49	33
Order fixing time for hearings.....	50	34
Objection by defendants to depositions of Li Ung Bing <i>et al.</i> , taken at Amoy, China.....	50	34
Motion to exclude depositions of Li Ung Bing <i>et al.</i> .....	51	34
Clerk's certificate as to opening depositions.....	52	35
Memorandum as to exhibits.....	52	35
Exhibit D <sup>2</sup> —Attested copy of deed No. 582.....	53	36
D <sup>1</sup> —General power, for various purposes, executed by Vicente Romero Sy-Quia in favor of his wife and son, No. 98.....	64	42
D <sup>2</sup> —Power from Vicente Romero Sy Quia to Gregorio Romero Sy Quia, December 9, 1888, No. 601... Minutes of registration of the record in the matter of estate of Vicente Romero Sy Quia, No. 549..	68	45
Stipulation to extend time to file arguments.....	72	47
Stipulation for commission, &c.....	168	106
Commission to counsel at Amoy.....	169	106
Depositions taken at Amoy.....	171	108
Appearances.....	172	108
Index to witnesses.....	172	108
Stipulation as to further witnesses.....	173	109
Testimony of Li Ung Bing.....	173	109
Sy Peng.....	203	126

# INDEX.

III

	Original.	Print
Testimony of Lim Chio.....	309	183
Yap Si Tan.....	338	199
Yap Chia.....	364	213
Sy Kai Tit.....	393	229
Yap Chong.....	426	247
Sy Boan.....	449	259
Sy Kong Leng.....	476	274
Sy Jong Oan.....	509	292
Plaintiffs' Exhibit No. 1—Translation of tablet.....	537	307
No. 2—Translation of tablet.....	538	307
No. 3—Translation of tablet.....	539	308
Depositions taken at Vigan.....	542	309
Notice to take depositions, &c.....	542	309
Testimony of Remigio Tongson.....	547	312
Roman Gray.....	553	316
Estefania Crisologo.....	560	320
Alejandra Singson.....	567	325
Estanislao Reyes.....	573	329
Bonifacio Brillantes.....	576	331
Benita Encarnacion.....	580	333
Melanio Lazo.....	583	335
Paulino Revilla.....	587	338
Juana Querol.....	590	340
Silveria Damian.....	592	342
Defendants' Exhibit No. 1—Certificate of baptism of Vicente Ruperto Romero.....	600	346
No. 2—Certificate of marriage of Vi- cente Romero Sy Quia and Petronila Encarnacion.....	600	346
No. 3—Certificate of baptism of Apol- onaria Romero.....	600½	347
No. 4—Certificate of baptism of Maria Romero.....	601	348
No. 5—Certificate of baptism of Gre- gorio Romero.....	602	349
No. 6—Certificate of baptism of Pedro Antonio Quia.....	603	349
No. 7—Certificate of baptism of Juan Nepomuceno Romero.....	603	350
System of adoption, chapter 4, volume 8, Statutes Tai Ching Dynasty.....	605	350
Distribution, chapter 14, volume 8, Statutes Tai Ching Dy- nasty.....	608	352
Wife and concubine, chapter 3, volume 10.....	609	353
Extracts from book entitled "Facultades de los Obispos de Ultramar".....	612	354
Extracts from book entitled "Tratado-Practico de Procedi- mientos Eclesiasticos in Materia Civil y Criminal".....	634	368
Extracts from book entitled "Facultades de los Obispos de Ultramar".....	640	371
Decision by Crossfield, J.....	646	374
Exceptions to decision.....	656	380
Affidavit of service of notice of lawyer's lien and assignment..	657	381

	Original.	Print
Notice of lawyer's lien and assignment .....	658	381
Exception to decision by Gregorio R. Sy Quia .....	659	382
Notice of motion for new trial .....	659	382
Motion for new trial .....	660	382
Motion for appointment of receiver .....	660	383
Exceptions to conclusions of law and motion to modify decision .....	661	383
Exception of Generoso Mendoza Sy Quia .....	663	384
Motion for new trial by G. M. Sy Quia .....	663	384
Exception of Pedro Sy Quia <i>et al.</i> .....	663	384
Exception of plaintiffs .....	664	385
Order denying motion to modify decision .....	664	385
Order denying new trial .....	665	385
Affidavit of service of notice .....	666	385
Notice of lawyer's lien and assignment .....	667	386
Order appointing receiver .....	668	387
Order to make report as to property .....	668	387
Exception to order appointing receiver .....	669	387
Oath of receiver .....	670	388
Notice of motion to amend bill of exceptions .....	671	388
Motion to amend bill of exceptions .....	672	389
Declaration of property by Gregorio Sy Quia .....	673	389
Pedro and Juan Sy Quia .....	674	390
Generoso Mendoza .....	678	392
Exception to order to make report of property .....	679	393
Exceptions to account rendered by Gregorio Sy Quia .....	679	393
Objections to amending bill of exceptions .....	680	393
Declaration of property by Generoso Mendoza Sy Quia .....	681	394
Index to testimony .....	684	396
Testimony of Lim Pan Ling .....	685	396
Sy Hien .....	726	420
Lim Pan Ling (recalled) .....	747	432
Sy Hien (recalled) .....	748	433
Sy Qui Quion .....	767	444
Sy Siang .....	793	458
Sy Yoc Chay .....	818	472
Sy Yoc Leng .....	837	483
Sy Yoc Leng (recalled) .....	872	502
C. W. O'Brien .....	874	504
Wm. H. Bishop .....	879	507
Sy Yu Tehu .....	882	508
Defense .....	889	512
Testimony of Felix Millan .....	889	512
Aniceto Singson .....	897	516
Norberta Feril .....	902	519
Macario Favila .....	906	522
Ramon Rodriguez .....	916	527
Ana Quang Su .....	921	530
Juan Sanchez .....	929	535
Manuel de Yriarte .....	931	536
Pedro Antonio Sy Quia .....	935	538
Juan Nepomuceno Sy Quia .....	946	544
Rebuttal .....	956	560

# INDEX.

v

	Original.	Print
Testimony of Sy Yoc Leng (recalled).....	956	550
Emilio Medina.....	968	556
Sy Hien (recalled).....	971	558
Sy Hong Ki.....	972	558
Juan Sanchez (recalled).....	976	561
Surrebuttal.....	986	566
Testimony of Gregorio Romero Sy Quia.....	986	566
Ruling of the court on the objections made in the deposition of Li Ung Bing.....	989	567
Ruling of the court on the objections made in the deposition of Sy Peng.....	993	569
Certificate of official reporter.....	1009	579
Plaintiffs' bill of exceptions.....	1010	579
Decision.....	1010	679
Exceptions to conclusions of law and motion for modifica- tion of decision.....	1021	583
Judge's certificate to bill of exceptions.....	1023	586
Clerk's certificate to bill of exceptions.....	1023	586
Defendants' bill of exceptions.....	1024	587
Complaint.....	1024	587
Answer of Petronila Encarnacion <i>et al.</i> .....	1030	592
Answer of Gregorio Sy Quia.....	1034	594
Answer of Generoso Mendoza Sy Quia.....	1038	597
Amendment by way of reply.....	1042	600
Answers to amended complaint.....	1045	601
Suggestion of death of Petronila Encarnacion.....	1046	602
Order on suggestion of death of Petronila Encarnacion.....	1047	603
Stipulation to take depositions.....	1047	603
Suggestion of death of Sy Juiniu.....	1049	605
Notice of motion to set for trial.....	1050	606
Appearance of administrator of Sy Juiniu.....	1050	606
Stipulation as to exhibits.....	1050	606
Motion to reject depositions.....	1051	606
Motion to reject depositions.....	1053	607
Decision.....	1054	608
Exceptions to decision.....	1064	614
Motions for new trial.....	1065	615
Motions overruled and exceptions.....	1067	616
Judge's certificate to bill of exceptions.....	1068	617
Clerk's certificate to bill of exceptions.....	1068	617
Defendants' additional bill of exceptions.....	1069	618
Order denying new trial and exceptions.....	1069	618
Order appointing receiver.....	1070	618
Exceptions to appointment of receiver.....	1071	619
Receiver's bond filed.....	1071	619
Order to make reports of property.....	1071	619
Exceptions to order to make reports of property.....	1072	619
Notice of additional exceptions.....	1073	620
Objections to additional exceptions.....	1073	620
Judge's certificate.....	1074	621
Clerk's certificate.....	1075	622
Caption to proceedings in supreme court.....	1077	622

	Original.	Print
Assignment of errors by defendants.....	1077	623
Assignment of errors by plaintiffs.....	1081	625
Motion of plaintiffs for leave to amend complaint.....	1082	625
Argument and submission.....	1090	629
Motion to discharge receiver, &c.....	1091	630
Affidavit of Sy Joe Lieng.....	1091	630
Affidavit of Pedro Sy Quia.....	1092	631
Stipulation that Justice Elliott take part.....	1094	632
Decision.....	1096	633
Motion for rehearing denied.....	1112	723
Judgment.....	1112	723
Exception to denial of motion for new trial.....	1113	723
Petition for appeal.....	1114	724
Affidavit of value.....	1117	725
Affidavit of poverty.....	1118	726
Assignment of errors.....	1119	726
Citation and service on appeal.....	1123	729
Bond on writ of error.....	1125	730
Petition for writ of error.....	1127	731
Allowance of writ of error.....	1129	732
Affidavit of value.....	1130	733
Affidavit of poverty.....	1131	733
Assignment of errors.....	1132	734
Writ of error.....	1136	737
Bond on writ of error.....	1138	738
Citation and service on writ of error.....	1140	740
Petition to send up original testimony and exhibits.....	1142	741
Order to send up original testimony and exhibits.....	1143	742
Clerk's certificate.....	1145	742
Concurring opinion by Moreland, J.....	1146	743

1 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance for the City of Manila.

4164.

SY JOC LIENG, SY YOC CHAY, SY JUIMIU, and SY CHUANIU,  
Plaintiffs,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
JUAN SY QUIA, and GENEROSO MENDOZA SY QUIA, Defendants.

*Complaint.*

Plaintiffs allege and complain:

I.

That on or about the year 1823 one Sy Quia, thereafter known in the Philippine Islands under the name of Vicente Romero Sy Quia, was born in China.

II.

That on or about the year 1847 the said Sy Quia, also known as Vicente Romero Sy Quia, was married in the City of Amoy China, to one Yap Buanju as hereinafter alleged, and thereafter the said Sy Quia otherwise known as Vicente Romero Sy Quia and the said Yap Buanju were and continued to be husband and wife.

III.

That during the marriage of the said Sy Quia and the said Yap Buanju there was born to the said marriage two male Children, to wit: Sy Bibo and Sy Biguel, who were the only legitimate children and heirs at law of the said Sy Quia, otherwise known as Vicente Romero Sy Quia.

IV.

2 That on or about the year 1882 the said Sy Bibo died intestate in China leaving as his only legitimate children and heirs at law plaintiffs Sy Yoc Chay and Sy Juynia, and the said plaintiffs Sy Yoc Chay and Sy Juyniu ever since the death of the said Sy Bibo became and are now the only legitimate surviving children and heirs at law of the said Sy Bibo, deceased.

V.

That on or about the year 1880 the said Sy Biguel, the other legitimate child and heir at law of the said Sy Quia and Yap Buanju,

died intestate in China leaving as his only surviving children and heirs at law plaintiffs Sy Joe Lieng and Sy Chuanju, who since the death of the said Sy Biguel have been and are now the only legitimate surviving children and heirs at law of the said Sy Biguel, deceased.

## VI.

That on or about the year 1891 the said Yap Buanju wife of the said Sy Quia, as hereinbefore alleged, died intestate in China leaving surviving her, her husband, the said Sy Quia, otherwise known as Vicente Romero Sy Quia and plaintiffs herein her only grandchildren and who ever since her said death have been and are now her only surviving legitimate heirs at law.

## VII.

That on or about the year 1894 the said Sy Quia, otherwise known as Vicente Romero Sy Quia, died intestate in the City of Manila, Philippine Islands, leaving surviving him plaintiffs herein his grandchildren, who at the time of his death became, ever since have been and are now his only legitimate descendants and heirs at law.

## VIII.

That during his lifetime the said Vicente Romero Sy Quia acquired a large estate, consisting of real and personal property situated in the Philippine Islands, a great part of which was and is situated in the City of Manila, of an approximate value of one million pesos, Insular Currency.

## IX.

That immediately after the death of the said Sy Quia otherwise known as Vicente Romero Sy Quia, the defendants and each  
3 of them unlawfully, without right and in the absence of the plaintiffs and each of them, took possession of all and every part of the real and personal property of the said Sy Quia otherwise known as Vicente Romero Sy Quia, deceased, and said defendants and each of them have as aforesaid ever since been managing and administering the said real and personal estate of the said Sy Quia, assuming acts of ownership and dominion over said estate of the said Sy Quia, deceased.

## X.

That since the death of the said Sy Quia, otherwise known as Vicente Romero Sy Quia, as hereinbefore alleged, the said defendants and each of them have converted and are converting part of the estate of the said Sy Quia to their and each of their own use and benefit, and have converted a great part of said estate into other real and personal property unknown to plaintiffs and to each of them, and said defendants and each of them are now in possession of such property so converted from the real and personal property left by the said Sy Quia as aforesaid, exercising acts of ownership and dominion thereon.



XI.

That plaintiffs and each of them have been unable to discover and do not know each and every piece or parcel of real and personal property left by the said Sy Quia, otherwise known as Vicente Romero Sy Quia, at the time of his death, and the said plaintiffs and each of them have been further unable to discover and do not know each and every piece and parcel of real and personal property so converted as hereinbefore alleged by defendants and each of them, except the property described in the document hereto attached, marked Plaintiff's Exhibit "A" and made a part of this complaint, and plaintiffs further allege that the property described in plaintiff's exhibit "A" is part of the real and personal estate left by the said Sy Quia, otherwise known as Vicente Romero Sy Quia, deceased, at the time of his death, and part of the real and personal property converted by defendants and each of them from the property of the said estate of the said Sy Quia, deceased, since the time of his death; that defendants and each of them are in the custody, possession and control of all the deeds, documents, contracts, books and papers evidencing the title to and conversion of the real and personal properties as hereinbefore alleged and the descriptions thereof, which said title, conversions and descriptions cannot be proven except by the oath of the defendants and of each of them.

XII.

Plaintiffs are informed and believe that the real and personal property belonging to the estate of the said Sy Quia otherwise known as Vicente Romero Sy Quia, and in the possession and control of the defendants and each of them as hereinbefore alleged is of the approximate value of one million pesos, Insular Currency.

XIII.

That Plaintiffs are the only legitimate surviving descendants and heirs at law of the said Sy Quia, otherwise known as Vicente Romero Sy Quia, and ever since his death have been and are now the only legitimate owners and entitled to the possession of all the real and personal property of the estate of the said Sy Quia deceased, and of the real and personal property converted as hereinbefore alleged from the properties of the said estate.

XIV.

That ever since the death of the said Sy Quia deceased defendants and each of them have been and are now appropriating to their own use and benefit all the rents and profits of the properties of the estate of the said Sy Quia, deceased, belonging to plaintiffs and to each of them, making it impossible for plaintiffs to discover the said rents and profits for the protection of plaintiffs' interests, which said rents and profits amount to many thousands of pesos insular currency per month, the true amount of which is unknown to plaintiffs and to each of them, and which said rents and



profits are in great danger of being lost, removed and materially injured to the irreparable injury and prejudice of plaintiffs and of each of them unless a receiver be appointed to guard and preserve them.

### XV.

That the real and personal property of the estate of Sy Quia, deceased, and belonging to plaintiffs herein has been and is being sold, incumbered and converted by the defendants and each of them and there is danger of the greater part of said property being lost, removed and materially injured to the irreparable injury and prejudice of the plaintiffs and each of them unless a receiver is appointed to guard and preserve it.

### XVI.

That in order to protect the interests of plaintiffs herein and to determine the amount and value of the real and personal property belonging to the estate of the said Sy Quia, deceased, at the time of his death, and the amount and value of the real and personal property subsequently converted by defendants and each of them as hereinbefore alleged and the amount and value of the rents and profits of the whole of said estate appropriated by defendants and each of them to their and each of their own use, as hereinbefore alleged, it is necessary that the said defendants and each of them be required to give a detailed accounting of the real and personal property and of the rents and profits thereinbefore mentioned and that discovery on oath be obtained from them and from each of them of the whole and every part of the said real and personal property of the said estate and of the rents and profits now in their possession control and custody and of the rents and profits converted and appropriated by them and each of them.

Whereof plaintiffs and each of them pray:

(a) That discovery be obtained from defendants and each of them on oath and said defendants and each of them be ordered to make a complete and detailed statement on oath before this Court of all of the real and personal property left by the said Sy Quia, at the time of his death, and of their management, administration, custody, control, conversion and disposition of the said real and personal property since the death of the said Sy Quia, deceased, and of the conversion thereof and of the whole and every part of the rents and profits of the said original and of the said converted estate.

(b) That a detailed accounting be ordered and had from said defendants and each of them of all of said original estate and of all of said converted estate, and of the administration, conversion, and disposition thereof by said defendants and by each of them and of the rents and profits as aforementioned.

(c) That a receiver be appointed by this Court, upon giving such bond as the Court may deem necessary and just, to take charge and administer the whole of said original and converted estate during the pendency of this action.

(d) That it be adjudged and decreed that plaintiffs and each of them have been ever since the death of the said Sy Quia otherwise

known as Vicente Romero Sy Quia, deceased, and are now his only surviving legitimate descendants and heirs at law, and that they and each of them have been ever since the death of the said Sy Quia as aforesaid and are now the only legitimate owners of the whole and every part of the real and personal property left by the said Sy Quia deceased and of the whole and of every part of the real and personal property converted by the defendants and each of them from any part of the said estate left by the said Sy Quia at the time of his death, and that plaintiffs and each of them are entitled to the whole and every part of the property hereinbefore mentioned and to the possession thereof and to the rents and profits therefrom as against the defendants herein and each of them.

(e) That it be adjudged and decreed that defendants and each of them have no right, title and interests in the real and personal property hereinbefore mentioned nor to any part thereof nor to the rents and profits hereinbefore mentioned.

(f) That it be adjudged and decreed that defendants and each of them have been holding and do now hold the whole and every part of the original and converted estate hereinbefore alleged, and the rents and profits hereinbefore mentioned in trust for the use and benefit of the plaintiffs and of each of them.

(g) For such other and further relief as the Court may deem equitable and just.

(h) For the costs of this action.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

(On the back of last page of this complaint there is a stamp) (translation:) United States of America, Manila, P. I. Part II( No. 4164. This civil complaint was filed this fourth of June, 1905. (Sgd.) J. McMicking, Clerk of the Court of First Instance of Manila, P. I.

8 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance for the City of Manila.

No. 4164.

SY JOC LIENG, SY JOC CHAY, SY JUINIU Y SY CHUANIU, Plaintiffs,  
vs.  
PETRONILA ENCARNACION, GREGORIA SY QUIA, PEDRO SY QUIA,  
JUAN SY QUIA, and GENOROSO MENDOZA SY QUIA, Defendants.

*Verification.*

Sy Joc Lieng, of lawful age, being first duly sworn upon oath, says, that he is one of the above named plaintiffs and has read and knows the contents of the foregoing complaint and that the facts and allegations set forth therein are true except such matters as are

stated on information and belief and as to such he believes the same to be true.

(Sgd.)

SY YOC LENG.

Subscribed and sworn to before me this 4th day of December, 1905, affiant exhibiting Cedula No. A7120, dated Manila, P. I., 13 day of January, 1905.

(Sgd.)

SIDNEY C. SCHWARTZHOPH.

(Stamp.)

Notary Public.

My Commission expires December 31st, 1906.

[Seal Sidney C. Schwartzkopf, Notario Publico, Islas Filipinas.]

(Stamp:) Filed on the 4 of Dec., 1905, at 4.20 P. M. (Sgd.) J. McMicking, Clerk.

9

UNITED STATES OF AMERICA,

*Philippine Islands, Manila:*

Court of First Instance.

[Stamp:] Filed 4.30 P. M. Dec. 6, 1905. Sheriff's Office.

No. 4164.

SY JOC LIENG, SY JOC CHAY and Others, Plaintiffs,

VS.

PETRONILA ENCARNACION and Others.

*Summons.*

Petronila Encarnacion, Gregoria Sy Quia, Pedro Sy Quia, Juan Sy Quia, and Generoso Mendoza Sy Quia:

You are hereby required to enter your appearance in the Office of the Clerk of the Court of First Instance of the city of Manila within (20) days after the service of this summons upon you, exclusive of the day of such service if it is served on you in the city of Manila, otherwise within forty (40) days, and to answer the complaint of said plaintiff which is hereto attached and herewith served upon you, within the time fixed by the rules of this Court. If you fail to appear within the time aforesaid the plaintiff will take judgment against you by default and demand from said Court the relief applied for in said complaint.

Witness the Honorable A. S. Crossfield, Judge of this Court of First Instance this 4 day of December, 1905.

(Sgd.)

J. McMICKING.

Clerk of the Court of First Instance of the  
City of Manila.

10

*Sheriff's Return.*

UNITED STATES OF AMERICA,  
*Philippine Islands:*

On this date I have served a copy of the within summons, and of the complaint attached, upon Pedro Sy Quia, personally, in Manila, P. I. It appears that Gregoria Sy Quia is not to be found within this jurisdiction.

Done at Manila, P. I. this 6 day of December, 1905.

(Stamped:)

JAMES J. PETERSON,

*Sheriff of Manila,*

(Sgd.)

By E. C. KUNDE, *Deputy Sheriff.*

Received copy of this summons and complaint and accept service this 6 day of December, 1905.

(Sgd.)

PETRONILA ENCARNACION.

JUAN SY QUIA.

G. M. SY QUIA.

Stamp: Sheriff fees P14.84. Paid by plaintiff. 12,000 words in excess.

11

M. Legaspi Florendo, Attorney-at-Law,  
34 Alcalá, Sta. Cruz, Manila, P. I.

UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance of Manila, Part II.

Civil No. 4164.

SY JOC LIENG, SY JOC CHAY, SY JUINIU and SY CHUANIU,  
Plaintiffs,

versus

PETRONILA ENCARNACIÓN, GREGORIA SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia and Generoso Mendoza y Sy Quia, Defend-  
ants.

*Appearance.*

The Clerk of the Court will please enter my appearance in the above entitled civil cause in behalf of the defendant Generoso Mendoza y Sy Quia, in compliance with the 5th rule for judicial procedure in the Courts of First Instance of the Philippine Islands.

Manila, December 23, 1905.

(Sgd.)

M. LEGASPI FLORENDO,

*Attorney for G. Mendoza y Sy Quia.*

(Stamp:) Filed on the 23rd of Dec., 1905, at 9.40 A. M. (Sgd.)  
J. McMicking, Clerk.

12 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance of Manila.

No. 4184.

SY JOC LIENG et al., Plaintiffs,  
 versus  
 PETRONILA ENCARNACIÓN et al., Defendants.

The Clerk of the Court will please enter the appearance of the undersigned as attorneys for the defendants Mrs. Petronila Encarnacion, D. Pedro Sy Quia and Mr. Juan Sy Quia, in the above entitled cause.

Manila, December 26, 1905.

(Sgd.)

ROSADO, SANZ & OPISSO.

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received copy 28 of Dec., 1905.

BISHOP & O'BRIEN

S.

Filed on the 28th of Dec., 1905, at 10.25 A. M.

J. McMICKING, *Clerk.*

13

(Title of Case Omitted.)

*Demurrer.*

The defendant, Generoso Mendoza Sy Quia, through the undersigned attorney, appears in the above entitled cause and demurs to the complaint on the following grounds:

I. That the plaintiffs have no legal capacity to sue (art. 91 No. 1 of the Code of Civil Procedure).

The lack of legal capacity may be based on two grounds (*a*) the lack of the necessary qualifications to appear in an action; and (*b*) the failure to substantiate the capacity or personality under which claim is made. The second ground is to be considered in connection with No. 1 of Art. 91 above cited; because although the plaintiffs from the second to the seventh paragraphs of their complaint allege that they are legitimate descendants of Vicente Romero Sy Quia, who died intestate in the year 1894, in the City of Manila, Philippine Islands, and in that capacity were the only ones entitled to inherit, they have forgotten the obligation to accompany the complaint with the document or documents which prove the capacity under which they appear in court, when the right claimed, according to themselves, is transmitted to them from another. See the general disposition of Arts. 108, 807, 912, and 913 of the Civil Code; see also the resolution of the Court of Land Registration that

in order to register the partial shares of inherited property it is necessary to attach a copy of the probated will or the order containing the declaration of heirs.

II. That the complaint is defective and there is a confusion of parties (No. 4 of the above cited article).

The question of whether there exist defects in the complaint or a confusion of parties appears at once. It is sufficient to compare the provisions of Art. 90 of the Code of Civil Procedure with the contents of Exhibit "A," which accompanies the complaint.

14 to be convinced that it suffers the defect defined in the fourth paragraph of the article commented on. Besides, it is affirmed by the plaintiffs on page five No. 14 of their complaint "That ever since the death of the said Sy Quia, deceased, defendants and each of them have been and are now appropriating to their own use and benefit all the rents and profits of the properties of the estate of the said Sy Quia, deceased, belonging to plaintiffs and to each of them, making it impossible for plaintiffs to discover the said rents and profits for the protection of plaintiffs' interests, which said rents and profits amount to many thousand pesos Insular Currency, the true amount of which is unknown to plaintiffs and to each of them and which said rents and profits are in great danger of being lost, etc." Nevertheless, it is not determined nor specified in said complaint what properties are claimed of each of the defendants, and as there does not exist among them the community of property as defined by Art. 392 of the Civil Code, there is no reason why they should be made defendants collectively and confusedly in a single complaint.

The plaintiffs should also know that the property left by the deceased Vicente Romero Sy Quia was divided legally among his five legitimate heirs, after deducting the dowry brought into the marriage by Petronila Encarnacion, the half of the conjugal property and her usufruct portion, and were adjudicated to Generoso Mondoza Sy Quia the following real property: an urban property situated on Calle Nueva No. 147, Ermita; another on Calle Nueva No. 154, Binondo; another on Calle San Jacinto No. 193, Binondo; another on Calle Nueva 136, Ermita; and another on Calle Cabildo No. 214 Walled City, therefore in compliance with Art. 1068 of the Civil Code which says: "A division legally made confers upon each heir the exclusive ownership of the property which may have been awarded him" this heir should not be confused with the other defendants in a single complaint.

15 III. That the complaint does not state facts sufficient to constitute a cause of action. (No. 5 of Art. 91 so many times cited.)

The cases in which the complaint does not allege facts sufficient to constitute a cause of action are so numerous that there is hardly any necessity of going into detail. Nevertheless, the following questions will serve as a guide in the matter: Does the complaint show that the plaintiffs from the Celestial Empire have the right to bring an action against the defendants regarding the property which they inherited legitimately from the deceased Vicente Romero Sy Quia?

We say no. See the *Disciplina Ecclesiastica de Sr. La Fuente*: The Council of Trent and the dispositions of the Catholic church regarding the canonical marriage in the Philippines; Powers of the bishops in the colonies regarding the marriage of Chinese in the Philippines; *Solita Undecimo* p. 76 to 308 by P. Gainza; *Legislacion Ultramarina* by Don Joaquin Rodriquez San Pedro; *Laws of the Indias* by Don Carlos II; *Estudios Fundamentales sobre el derecho Civil Español* by Gitiérrez Quina Edicion regarding canonical matrimony.

If the Chinaman Sy Quia, before abandoning his country and moving to the Philippines had left considerable property there in China, and later was baptized and was married to an Indian in the Philippines, and during the marriage with her had several children and legitimate descendants, and later the said Sy Quia had returned to China and there died, would his legitimate children and descendants in the Philippines have the personality or the right to reclaim the property which the deceased may have left in China? The plaintiffs will tell us that they would not, because the Council of Trent which governed marriages in the Philippines prior to the year 1898, is not the national law of China; and we are sure that the attorneys for the plaintiffs will not apply the rigorous maxim of Private International Law that *Lexes non valent extra territorium statuentis*.

16 Before closing we wish to suggest to the Court that it require of the foreign plaintiffs what is known in law as *caucion Judicatum Solvi*, because this is practiced in the United States, which are governed by the same law as England. In this classical and special nation there is no written legislation regarding the subject-matter; but as in that country the decisions of the Courts form a jurisprudence with the force of law in which is to be found sanctioned the requirement that a foreign plaintiff is obliged to file a *Judicatum solvi* bond or proof that he is a person of landed property to guarantee the costs and expense of the trial.

In view of the foregoing, the defendant Generoso Mendoza Sy Quia prays the court to sustain this demurrer.

Manila, January 2, 1906.

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorney for Generoso M. Sy Quia.*

Received copy January 2, 1906.

(Sgd.) BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

Filed January 2, 1906 at 3.4 P. M.

(Sgd.)

J. McMICKING, *Clerk.*

17

(Title of Case Omitted.)

*Answer.*

The defendants Petronila Encarnacion, Pedro Sy Quia and Juan Sy Quia, answering to the plaintiffs' complaint, state:



## I.

That they deny specifically the 1st, 2nd, 3rd, 4th, 5th and 6th paragraphs of plaintiffs' complaint.

## II.

That they generally deny each and every one of the 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, and 16th paragraphs of the same complaint, with the exception of that which in this answer is admitted expressly as true.

As a special defense and in opposition to the complaint of the plaintiffs, these defendants answering, state:

## I.

That prior to the year 1852 Mr. Vicente Ruperto Romero Sy Quia, was a non-Christian Chinaman, known only by the name of Sy Quia, residing in the Philippine Islands for many years prior to the said year 1852.

## II.

That on the 11 of June, 1852, the said non-Christian Chinaman Sy Quia, was converted to Christianity, receiving the baptismal waters in the parish of San Vicente Ferrer, Province of Ilocos Sur, Philippine Islands, and the names of Vicente Ruperto Romero Sy Quia. Copy of the entry of baptism, marked Exhibit "1" for the defendants is attached to, and made an integral part of this answer.

## III.

That on the 9th of June, 1853, in the City of Fernandina de Vigan, Philippine Islands, the Chinaman converted to Christianity, Vicente Ruperto Romero Sy Quia, contracted a legitimate canonical marriage, in accordance with the laws then in force in the Philippine Islands, with the defendant Petronila Encarnacion, Indian, native of Vigan, Province of Ilocos Sur, Philippine Islands. A copy of the entry of the marriage of the said Vicente Ruperto Romero Sy Quia with the defendant Petronila Encarnacion, marked Exhibit "2" for the defendants is attached to and made an integral part of this answer.

## IV.

That the spouses Don Vicente Ruperto Romero Sy Quia and Doña Petronila Encarnacion established and fixed their residence and conjugal domicile in the Philippine Islands where as a matter of fact they maintained their conjugal domicile from the celebration of the marriage on the 9th of June, 1853, until the dissolution of the same by the death of Don Vicente Ruperto Romero Sy Quia which occurred on the 9th of January, 1894.

## V.

That at the time of the celebration of this marriage Don Vicente Ruperto Romero Sy Quia had no property of whatever class and



therefore brought nothing into the marriage with Doña Petronila Encarnacion, while she brought into the marriage a small capital which was the base of the larger capital acquired later by the said spouses, through their work and industry, and through the work and industry of the children that they had and who are mentioned later.

## VI.

That during the legitimate canonical marriage celebrated or contracted by Don Vicente Ruperto Romero Sy Quia with Doña Petronila Encarnacion, as alleged, five legitimate children were born, named Doña Apolonia, Doña Maria, Don Gregorio, Don Pedro, and Don Juan, who were baptized and enjoyed since their birth, and enjoy at present the state of legitimate children of legitimate marriage of Don Vicente Ruperto Romero Sy Quia and Doña Petronila Encarnacion. Copies of the baptismal entries of these children  
19 are attached and marked Exhibits "3," "4," "5," "6" and "7" for the defendants who answer and are made an integral part of this answer.

## VII.

That on the 9th of January, 1894, in this City of Manila, Don Vicente Ruperto Romero Sy Quia, legal husband of the defendant Doña Petronila Encarnacion and legal father of the defendants Pedro and Juan Sy Quia and their brothers and sisters, died intestate, and after the legalities in accordance with the legislation then in force, by order of the Court of First Instance of Quiapo, of the 26th of January, 1894, his living children, Apolinaria, Gregorio, Pedro and Juan, born as alleged in legitimate matrimony with Doña Petronila Encarnacion, and his grand child, Generoso Mendoza, in representation of his mother Maria Romero Sy Quia, deceased, were judicially declared his heirs of the intestate. A copy of this order of the declaration of heirs is attached to, and marked Exhibit "8," and is made an integral part of this answer.

## VIII.

That on the 1st of May, 1900, Apolinaria Romero Sy Quia, judicially declared an heir of her father Don Vicente Ruperto Romero Sy Quia, died, single and intestate, leaving her mother, Doña Petronila Encarnacion, as her only legitimate and universal heir.

## IX.

That since the 9th of January, 1894, in which the death of Don Vicente Ruperto Romero Sy Quia occurred, the defendants have been in quiet, public, peaceful and uninterrupted possession to this date and in the capacity of owners in good faith and just title of all the property which constitutes the inheritance of the said deceased Vicente Ruperto Romero Sy Quia, without having been  
20 molested by the plaintiffs or any of them, notwithstanding that they have been present in the Philippine Islands.

## X.

That all the property inventoried in the partitional distribution of the property left by the deceased Vicente Ruperto Romero Sy-Quia were acquired by him after the year 1853, in which year he contracted marriage with the defendant Petronila Encarnacion, that much of the real property which appears in the inventory of distribution was acquired by Doña Petronila Encarnacion after the death of her husband; and that in the writings of acquisition of much of the real property acquired during the lifetime of Don Vicente Ruperto Romero Sy Quia, Doña Petronila Encarnacion appears also as purchaser.

The defendants Doña Petronila Encarnacion, Don Pedro Sy Quia and Don Juan Sy Quia, pray the court that they be absolved from the complaint and with costs against the plaintiffs.

They also pray for all other relief which is deemed proper in justice and equity.

Manila, 4 of January, 1906.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received Copy January 4, 1906.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

Filed on January 4, 1906.

— — —, *Clerk.*

21

## EXHIBIT No. 1.

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia and Juan Sy-Quia.*

Don Melanio Lazo Singson Pbro. acting Parish Curate of this town of the suburb of S. Vicente Ferrer, Province of Ilocos Sur, Certify: that in the Book No. 7 of baptisms of this parish under my charge, there is to be found on the reverse of page 73 an entry of the following tenor:

Vicente "On the eleventh of June one thousand eight hundred Ruperto and fifty-two: I the P. D. Domingo Ignacio Pecson, Parish Romero. Curate of this town of San Vicente solemnly baptized and sprinkled the Sacred Oils in this Church on the adult Chinaman Vicente Ruperto Romero. D. Juan Francisco, the public Clerk of this province was his Godfather to whom was explained the spiritual relationship and the other Christian obligations. And that it may appear I sign.

DOMINGO PECSON."

Conforms to the original from which it was faithfully copied to which I refer. Parish convent of the said town of the suburb of San Vicente the twelfth of October of the year one thousand nine hundred and four.

[PARISH SEAL.]

(Sgd.) MELANIO LAZO SINGSON.

Subscribed and sworn to before me this 12 of October 1904 in the Justice of the Peace Court, of Vigan, Ilocos Sur, Philippine Islands.

[Seal of the Justice of the Peace Court.]

(Sgd.)

FELIPE MATA,  
*Justice of the Peace.*

Stamped: "A copy."

(Signed)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

## 22

## EXHIBIT No. 2.

*Of the Defendants Petronial Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

Don Rosario y Singson, Pbro. Parish Curate of this City of Ferdinandina de Vigan, Philippines.

Certify that in the Book No. 14 of Marriages in this parish under my charge, there is to be found on page 350 an entry of the following tenor:

"On the ninth of June of the year one thousand eight hundred and fifty-three, preceded by the three publications of the banns as provided by the Sacred Council of Trent, and there being no legitimate impediment disclosed: the P. D. Marcelino Resurreccion, Gowned Sacristan and Coadjutor of this Capital, with my permission, personally assisted at and authorized the marriage in face ecclesie contracted by D. Vicente Romero Sy Quia single, of no barangay, being a Chinaman by nationality, with Doña Petronila Singson, spinster, non-contributor, daughter of D. a Ruperta Singson, widow, of the barangay of D. Domingo Singson. The said contracting parties personally expressed their mutual consent verbally, and immediately received the nuptial benedictions according to the rite of N. S. M. Church, and D. Tomas Singson and D. a Florentina Leon were their witnesses. All of which I the regular Priest signed.

PEDRO V. ABAYA."

Faithfully copied and compared with the original to which I refer. Vigan 19 of September, 1904.

[PARISH SEAL.]

(Sgd.)

AGUSTIN ROSARIO.

Subscribed and sworn to this 19 day of Sept., 1904, in the Justice of the Peace Court of Vigan, Ilocos Sur, Philippines.

[Seal of the Justice of the Peace Court.]

(Sgd.)

FELIPE MATA,  
*Justice of the Peace.*

Stamped: "It is a copy."

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

23

EXHIBIT No. 3.

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

D. Agustin Rosario y Singson, Pbro. Parish Curate of this City Fernandina de Vigan, Philippines.

Certify: that in the Book No. 24 of baptisms of this Parish of my charge, will be found on p. 382 reversed the entry of the following tenor:

"On the twenty-third of July of the year one thousand eight hundred and fifty-three, The Priest Don Emeterio Arce, Coadjutor of this Capital, with permission of the regular Priest, baptized solemnly and sprinkled the Sacred Oils on Apolinaria Romero, a girl three days old, legitimate daughter of Vicente Romero, Chinaman, and of Petronila Encarnacion, of the barangay of D. Tomas Singson: Angela Encarnacion was her God-mother, to whom was explained the spiritual relationship. And that it appear I signed.

PEDRO V. ABAYA."

It is faithfully copied and compared with its original to which I refer. Vigan 19 of September of 1904.

[PARISH SEAL.]

(Signed)

AGUSTIN ROSARIO.

Subscribed and sworn to before me this 19 day of Sept. 1904 in the Justice of the Peace Court of Vigan, Ilocos Sur, Philippine Islands.

[Justice of the Peace Court Seal.]

(Signed)

FELIPE MATA,

*Justice of the Peace.*

Stamped: "It is a copy."

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

24

EXHIBIT No. 4

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

D. Agustin Rosario y Singson, Pbro., Parish Curate of this City Fernandina de Vigan, Philippines.

Certify: that in the Book No. 25 of baptisms of this Parish of my charge, will be found on p. 79 the entry of the following tenor:

"On the eleventh of October of the year one thousand eight hundred and fifty-four; The P. D. Roque David, Priest, of this Capital, with permission of the regular Priest baptized solemnly and sprinkled the Sacred Oils on Maria Romero, a girl of five days, legitimate daughter and of legitimate marriage of Vicente Romero Sy-

Quia, Chinaman, and of Petronila Encarnacion, del barangay of D. Mariano Versosa: D. a Benita Encarnacion was her God-mother, to whom was explained the spiritual relationship. And that it may so appear I signed.

PEDRO V. ABAYA."

It is faithfully copied and compared with its original to which I refer. Vigan 19 of September of 1904.

[PARISH SEAL.]

(Signed)

AGUSTIN ROSARIO.

Subscribed and sworn to before me this 19 day of Sept. of 1904, in the Justice of the Peace Court of Vigan Ilocos Sur Philippine Islands.

[Seal of the Justice of the Peace Court.]

(Signed)

FELIPE MATA,  
*Justice of the Peace.*

Stamped: It is a copy.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

25

EXHIBIT No. 5

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

D. Agustin Rosario y Singson, Pbro., Parish Curate of this City Fernandina de Vigan, Philippines.

Certify: that in the Book No. 25 of baptisms of this Parish of my charge will be found on p. 323 reversed, the entry of the following tenor:

"On the seventeenth of November of the year one thousand eight hundred and fifty-six: the P. D. Pastor Velasquez, Coadjutor of this Capital, with my permission the regular Priest baptized solemnly and sprinkled the Sacred Oils on Gregorio Romero, boy of two days, legitimate son and of legitimate marriage of Vicente Romero Sy-Quia, Chinaman, and of D. a Petronila Encarnacion, of the barangay of D. Mariano Versosa: The Presbitero Ber. D. Evaristo Abaya was his God-father, to whom was explained the spiritual relationship. And that it may so appear I signed it.

PEDRO V. ABAYA."

It is faithfully copied and compared with its original to which I refer. Vigan 19 of September of 1904.

[PARISH SEAL.]

(Signed)

AGUSTIN ROSARIO.

Subscribed and sworn to before me this 19 day of September of

1904 in the Justice of the Peace Court of Vigan Ilocos Sur Philippine Islands.

[Seal of the Justice of the Peace Court.]

(Signed)

FELIPE MATA,  
*Justice of the Peace.*

Stamped: It is a copy.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

26

EXHIBIT No. 6

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

D. Agustin Rosario y Singson, Pbro. Parish Curate of this City Fernandina de Vigan, Philippines.

Certify: que in the Book No. 25 of baptisms of this Parish of my charge will be found on P. — the entry of the following tenor:

"On the twelfth of May of the year one thousand eight hundred and fifty-eight: The P. D. Fernando Hilario, Coadjutor of this Capital with my permission the regular Priest, baptized solemnly and sprinkled the Sacred Oils on Pedro Antonio Sy-Quia, boy of four days, legitimate son and of legitimate marriage of Vicente Sy-Quia, Chinaman, and of Petronila Encarnacion, of no barangay being a Chinaman: The Presbitero D. Antonio Turingan was his God-gather, to whom was explained the spiritual relationship. And that it may so appear I signed it.

PEDRO V. ABAYA."

It is faithfully copied and compared with its original to which I refer. Vigan 19 of September of 1904.

[PARISH SEAL.]

(Signed)

AGUSTIN ROSARIO.

Subscribed and sworn to before me this 19 day of Sept. of 1904 in the Justice of the Peace Court of Vigan Ilocos Sur Philippine Islands.

[Seal of the Justice of the Peace Court.]

(Signed)

FELIPE MATA,  
*Justice of the Peace.*

Stamped: It is a copy.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

27

## EXHIBIT No. 7

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

D. Agustin Rosario y Singson, Pbro. Parish Curate of this City Fernandina de Vigan, Philippines.

Certify that in the Book No. 25 of baptisms of this Parish of my charge will be found on p. 115 the entry of the following tenor:

"On the sixteenth day of May of the year one thousand eight hundred and sixty: The P. D. Eulalio Dario, Coadjutor of this Capital, with my permission, the regular Priest, baptized solemnly and sprinkled the Sacred Oils on Juan Nepomuceno Romero, child of three days, legitimate son of Vicente Romero Si-Quia, Chinaman, and of Petronila Encarnacion, of the barangay of D. Victorio Yna: D. Teodoro Singson was his God-father, to whom was explained the Spiritual relationship. And that it may so appear I signed it.

JUAN OSSET."

It is faithfully copied and compared with its original to which I refer. Vigan 19 of September of 1904.

[PARISH SEAL.]

(Signed)

AGUSTIN ROSARIO.

Subscribed and sworn to before me this 19 day of September of 1904 in the Justice of the Peace Court of Vigan Ilocos Sur Philippine Islands.

[Seal of the Justice of the Peace Court.]

(Signed)

FELIPE MATA,

*Justice of the Peace.*

Stamped: It is a copy.

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

28

## EXHIBIT No. 8

*Of the Defendants Petronila Encarnacion, Pedro Sy-Quia, and Juan Sy-Quia.*

Court of First Instance of Quiapo, The Twenty-sixth of January, One Thousand Eight Hundred and Ninety-four.

*Order.*

It appearing that on the seventeenth instant Doña Petronila Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, and her children had by him, Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and Don Eustaquio Mendoza, in



the name and representation of his minor son, Don Generoso Mendoza had by his deceased wife Doña Maria Sy-Quia, also their legitimate daughter, appeared in court with the writing on p. 12 in which they pray that in virtue of the documents which accompany it and the disposition of the Arts. 961, 962 and 962 of the "Ley de Enjuiciamiento Civil, the court, first considering the oral testimony which they offer and summoning the Prosecuting Attorney, declare them the heirs of the intestate of the said deceased Don Vicente Romero Sy-Quia, father, husband and grandfather of the petitioners. And it appearing that on the eighteenth instant the Court granted the prayer of the petitioners, admitting the oral information offered, with the summoning of the Prosecuting Attorney, as petitioned for in the said writing p. 12. And it appearing that the petitioners presented as witnesses Don Lino Echaves, Don Juan Salgado and Don Tiburcio Cué, all of age, without legal disqualification to be witnesses, known to the actuary, who unanimously and affirmatively testified consistent with the prayer of the petitioners in the said writing, that they know of their own knowledge that Doña Apolonaria Encarnacion, Don Gregorio, Do- Pedro and Don Juan, surnamed Sy-Quia, are legitimate children and of legitimate marriage of the deceased, the said Don Vicente Romero Sy-Quia, had by his wife Doña Petronila Encarnacion, and that Don Generoso Mendoza is the grandson also legitimate of the same spouses as the son of the deceased Doña Maria Sy-Quia, legitimate daughter and of legitimate marriage of the same, and who was the wife of Don Eustaquio Mendoza, who represents his said minor son Generoso, without them knowing anything to the contrary and that the said Don Vicente Romero Sy-Quia did not execute a will before his death, whose heirs are his said children and grandchild, page 18 to 21; And it appearing that these proceedings being referred to the Prosecuting Attorney for his suggestion, this functionary indicated that the Court should make the declaration prayed for by the petitioners without prejudice to a third party with equal or better rights p. 23. Considering the canonical certificates of pp. 1 to 11 and the affirmative declarations of three proper witnesses, presented in this hearing, it is decreed that it is properly established that Don Vicente Romero Sy-Quia died intestate, as well as that his heirs are his said children by right of representation. Considering that in this proceeding the legal requirements established by Art. 964 and following of the "Ley de Enjuiciamiento Civil" have been observed—The *Señor* Don Felix Garcia Gavieres, Judge of the Court of First Instance of the District of Quiapo by regular substitution and before me the Clerk said: That he must and does declare the deceased Chinaman Don Vicente Romero Sy-Quia intestate and his heirs are his children Doña Apolonaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and his grandchild Don Generoso Mendoza, as the son of the deceased Maria Sy-Quia and late wife of Don Eustaquio Mendoza, who represents his said minor son, without prejudice to a third party with equal or better rights, and to deliver to the interested parties proof of this



29) ST JOE LLENGA ET AL. VS. GREGORIO SY QUITA ET AL.

order. It was so provided and ordered and signed by the Señor Judge to which I certify.

(Signed)

FELIX GARCIA GAVIERES

(Signed)

EDSTAQUIO V. DE MENDOZA

(Sgd.)

ROSADO, SANZ & OPISEO

Attorneys, 31 Plaza del Padre Moraga, Manila.

Stamped: It is a copy.

30) UNITED STATES OF AMERICA,  
Philippine Islands:

(Title of Case Omitted.)

The undersigned appear in the above entitled cause as attorneys for the defendant Gregorio Sy-Quia.

Manila, P. I. January 6, 1906.

(Sgd.)

LEDESMA, SUMELONG & QUINTOS

Attorneys for the Defendant Gregorio Sy-Quia.

Received copy of this appearance this eighth day of January 1906.

(Sgd.)

BISHOP & O'BRIEN

Attorneys for the Plaintiff.

Filed on the 9 of January 1906 at 8.34 A. M.

(Sgd.)

J. McHICKING, Clerk.

(Title of Case Omitted.)

Sr. M. Legaspi Florendo:

Sr. M. You are hereby notified that at 8.00 A. M. or as soon as possible we will ask the Court to overrule the demurrer interposed by you.

(Sgd.)

BISHOP & O'BRIEN

Attorneys for the Plaintiff.

Received copy this 3 of January 1906.

(Sgd.)

M. LEGASPI FLORENDO

Attorney for the Defendant Genovian M. Sy-Quia.

31) (Title of Case Omitted.)

This cause is before the court to day for the hearing of the demurrer interposed by the defendants against the plaintiff's complaint.

After hearing the parties by means of their respective counsel and after considering fully the grounds alleged in said demurrer and examining the complaint against which the demurrer is interposed, I am of the opinion that the demurrer is not well taken, because the complaint states a cause of action against the persons al-

leged in the complaint and they fully appear as parties plaintiffs and defendant.

Therefore the demurrer is overruled and five days are conceded in which to answer.

It is so ordered.

Manila, January 13, 1906.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

To-day January 17th, 1906, cards of notification of the foregoing order were sent to the parties.

(Sgd.)

JOSE CASIMIRO,  
*Deputy Clerk.*

(Title of Case Omitted.)

*Answer.*

The defendant Gregorio Sy-Quia, through his Attorneys in answer to the complaint says:

I.

That he denies the truth of the facts alleged in said complaint, each and every one of them.

II.

Specifically denies that the deceased Vicente Romero Sy-Quia, whose true and complete name is Vicente Ruperto Romero Sy-Quia, ever contracted marriage in the City of Amoy, China, with one Yap-Ruanjü in or about the year 1847, as is alleged in the 2nd paragraph of the complaint, or at any other time prior to or after the said year.

32

III.

And at the same time specifically denies that those named Sy-Bibo and Sy-Biguel were children and legitimate heirs of the deceased Vicente Ruperto Romero Sy-Quia, as is alleged in the 3rd paragraph of the complaint.

IV.

Denies in the same manner that the plaintiffs named Sy-Joe-Lieng, Sy-Joe-Chay, Sy-Juiniu and Sy-Chuaninu were grandchildren and legitimate heirs of the deceased Vicente Ruperto Romero Sy-Quia.

As grounds for a special defense also alleges:

V.

That the deceased Vicente Ruperto Romero Sy-Quia, then known only by the name Sy-Quia, many years prior to the year 1852, and being a non-Christian Chinese subject, came and definitely established his residence and domicile in the Philippine Islands subjecting himself to the laws then in force here.

## VI.

That in the said year 1852, the said Sy-Quia was converted to catholicism and as a matter of fact was baptized, on the 11 day of June of said year, in the Parish of San Vicente Ferrer, province of Ilocos Sur, P. I., receiving the names of Vicente Ruperto Romero Sy-Quia, as appears in the document, the copy of which is attached to this writing and is made a part of the same and marked Exhibit "A."

## VII.

On the 9 of June 1853, in the City of Vigan province of Ilocos Sur, P. I., the said Vicente Ruperto Romero Sy-Quia contracted legitimate marriage with the defendant Petronila Encarnacion, Filipina native of the City of Vigan, Province of Ilocos Sur, P. I., in accordance with the rites and under the beliefs of the Roman Catholic Church, and in compliance with the laws then in force in the Philippine Islands. A copy of the canonical entry of the said marriage is attached and made a part of this answer marked Exhibit "B."

## VIII.

The spouses Vicente Ruperto Romero Sy-Quia and Petronila Encarnacion established and permanently fixed their residence and conjugal domicile in the Philippine Islands after their marriage, and as a matter of fact constantly continued domiciled and residing in the Philippine Islands until the 9 day of January, 1894, when the said Vicente Ruperto Romero Sy-Quia died intestate in the City of Manila.

## IX.

During their marriage the spouses Vicente Ruperto Romero Sy-Quia and Petronila Encarnacion had five children, to wit: Apolinaria, Maria, Gregorio, Pedro and Juan, all surnamed Sy-Quia, being the said Gregorio the defendant who makes this answer. A literal copy of the canonical entry of baptism of the defendant Gregorio Sy-Quia is attached to and made a part of this answer, marking it Exhibit "C."

## X.

The deceased Vicente Ruperto Romero Sy-Quia did not bring any property of whatever class into the conjugal society, but his wife Petronila Encarnacion brought to the same a small capital in currency consisting of the sum of five thousand (5,000) pesos, with which and by means of the work and industry of the said spouses in the beginning and by the work and industry of the children later, acquired the wealth of property existing at the time of the death of the said Vicente Ruperto Romero Sy-Quia.

The property left by the said Vicente Ruperto Romero Sy-Quia

were acquired and were at the time of his death and are now in the Philippine Islands.

XII.

By order of the 28 of January, 1894, dictated by the Court of First Instance of Qulapo, the living children of the deceased Vicente Ruperto Romero Sy-Quia, Apolinaria, Gregorio, Pedro and Juan, and his grandchild Generoso Mendoza in representation of his deceased mother Maria Romero Sy-Quia, were declared the only heirs of the intestate. An exact copy of the said order, marked Exhibit "D" is attached to and made a part of this answer.

XIII.

On the 1st of May, 1900, Apolinaria Romero Sy-Quia died single and intestate, leaving as her only legitimate and universal heir her mother Doña Petronila Encarnacion.

XIV.

From the said date the 26th of January, 1894, the defendants in the capacity of only legitimate heirs of the deceased Vicente Ruperto Romero Sy-Quia, took possession of the property left by him, and enjoyed said possession with just title and good faith, in the capacity of only heirs, publicly constantly, quietly, and peacefully until the plaintiffs presented their complaint before this court.

XV.

The plaintiffs in this cause resided in the Philippine Islands at the time of the death of Vicente Ruperto Romero Sy-Quia, and knew the fact of the death of said Vicente Ruperto Romero Sy-Quia.

XVI.

The plaintiffs at the time had knowledge and advise that the defendants had asked and received the declaration of heirs in their favor and which is referred to in paragraph X of this writing.

XVII.

That at no time were the plaintiffs or their respective parents recognized or considered as descendants, heirs or relatives by the deceased Vicente Ruperto Romero Sy-Quia.

Therefore the defendant Gregorio Sy-Quia, by means of his attorneys, prays the court to dictate sentence declaring that the plaintiffs have no interest or right to the inheritance of Vicente Ruperto Romero Sy-Quia, and that the defendants are the only legitimate heirs of the same, with costs against the plaintiffs.

Manila, P. I. 6 of January, 1906.

(Sgd.)

LEDESMA, SUMULONG & QUINTOS,  
Attorneys for the Defendant Gregorio Sy-Quia.

We received copy of this writing this 12-day of January 1906.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

Filed on the 12 of January, 1906 at 12 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

Exhibit "A" is omitted here as it is an exact copy of Exhibit No. 1 attached to the answer of the defendants Petronila Encarnacion, Pedro Sy-Quia and Juan Sy-Quia.

Exhibit "B" is omitted as it is an exact copy of Exhibit "2" attached to the answer of the defendants mentioned in the preceding paragraph.

Exhibit "C" is omitted here as it is an exact copy of Exhibit 5 attached to the answer of the defendants mentioned above.

36 Exhibit "D" is omitted here as it is an exact copy of the order of the Court of First Instance of Quiapo declaring the legal heirs of Vicente Ruperto Romero Sy-Quia, attached as Exhibit No. 8 to the answer of the said defendants Petronila Encarnacion and others.

(Title of Case Omitted.)

*Answer.*

The defendant Generoso Mendoza Sy Quia answering to the complaint on file says:

I. That he denies each and every allegation contained in 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th and 16th paragraphs of the complaint.

II. That he specifically denies that the deceased Vicente Romero Sy Quia, whose baptismal name is Vicente Ruperto Romero Sy Quia, contracted marriage in the City of Amoy, Chinese Empire, with the Yap-Buanju in or about the year 1847, as is alleged by the plaintiffs in the 2nd paragraph of their complaint, or at any other time before or after the said year.

III. He also specifically denies that those named Sy Biho and Sy Biguel are children and legitimate heirs of the said deceased Vicente Ruperto Romero Sy Quia, as is alleged by said plaintiffs in the 3rd paragraph of their complaint.

IV. He denies in the same sense that the plaintiffs mentioned, Sy Joe Lieng, Sy Yoe Chay, Sy Juiniu and Sy Chuanin are descendants and legitimate heirs of the said deceased Vicente Ruperto Romero Sy Quia.

And as a special defense the defendant Generoso Mendoza Sy Quia, alleges:

(a) That the deceased Vicente Ruperto Romero Sy Quia, then simply known by the name Sy Quia, many years prior to the  
37 year 1852 and being a nonchristian Chinese emigrant, came and established his residence and domicile in the Philippines, subjecting himself to the laws then in force here.

(b) That in the said year 1852, the said Sy Quia was converted to Christianity, being baptized in the Parish of the town of San Vicente Ferrer, Ilocos Sur, Philippine Islands, receiving the names of Vicente Ruperto Romero Sy Quia, as appears in the canonical entry of the baptism marked Exhibit- "1" and "A" of the other defendants and which the defendant Generoso Mendoza Sy Quia makes his and which is to be considered as an integral part of this answer.

(c) That on the 9 of June of 1853, in the City of Fernandina de Vigan, Ilocos Sur, Philippine Islands, the said Vicente Ruperto Romero Sy Quia contracted legitimate marriage in faciem ecclesie with the defendant Petronila Encarnacion, Filipina Ilocana, native of the City of Fernandina de Vigan, Ilocos Sur, consistent with the canonical laws approved by the Council of Trent, the only ones then in force in the Philippine Islands. A copy of this certificate of the entry of the marriage is not attached to this answer inasmuch as the defendant Generoso Mendoza Sy Quia makes the certified copy of the entry of the marriage respectively marked Exhibit- "2" and "B" of his co-defendants his.

(d) That the spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnacion established and permanently fixed their residence and conjugal domicile in the Philippine Islands after their marriage, and as a matter of fact constantly continued domiciled and residing in the Philippine Islands until the 9th day of January, 1894, when their marriage was dissolved by the death of the husband, Vicente Ruperto Romero Sy Quia, in the City of Manila.

(e) During their marriage the spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnacion had five children, who are: Apolinaria, Maria, Gregorio, Pedro and Juan, all surnamed Romero Sy Quia, the defendant Generoso Mendoza being the grandson and legitimate descendant of said spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnacion on account of being the legitimate son of the said Maria (now deceased) in her marriage with Eustaquio Mendoza.

(f) That at the time of the celebration of the marriage of Vicente Ruperto Romero Sy Quia and Petronila Encarnacion, he had no property of his own of any class, while she brought to the conjugal partnership a small capital of her own in currency consisting of the sum of five thousand pesos which was the base of another larger, with which and by means of the work and industry of both spouses, and with the work and industry or assistance of their children, they acquired the wealth of property existing at the time of the death of the said Vicente Ruperto Romero Sy Quia.

(g) That on the 9th of January, 1894, in the City of Manila Vicente Ruperto Romero Sy Quia, legitimate husband of the defendant Petronila Encarnacion, legitimate father and grand-father of the defendants Gregorio, Pedro, Juan and Generoso Mendoza Sy Quia, died intestate, and after the legal proceedings in accordance with the Ley de Enjuiciamiento Civil Español, then in force in the Philippine Islands, his living children Apolinaria, Gregorio, Pedro and Juan, had as is alleged by his legitimate mar-



riage with Petronila Encarnacion, and his grandchild Generoso Mendoza Sy Quia, in representation of his mother Maria Romero Sy Quia (already deceased), were judicially declared his heirs, by the order of the 26th of January of 1894, dictated by the Court of First Instance of Quiapo, Manila, Philippine Islands, as appears in the copy marked Exhibit "8" and "D" of the respective answers of his co-defendants.

(h) That on the first day of May of 1900, Apolinaria Romero Sy Quia, judicially declared heir of her father Vicente  
39 Ruperto Romero Sy Quia, died single and intestate, leaving her mother, Doña Petronila Encarnacion, as her only legitimate and universal heir.

(i) That since the death of Vicente Ruperto Romero Sy Quia the defendants have been in quiet, public, specific and uninterrupted possession in the capacity of owners in good faith and with just title of all the property which constitutes the inheritance of the said deceased Vicente Ruperto Romero Sy Quia, without their having been molested by the plaintiffs or any of them, notwithstanding that they were present in the Philippine Islands at the time of the death of the said Vicente Ruperto Romero Sy Quia.

(j) The plaintiffs at the same time had information and knowledge of the fact that the defendants prayed the Court for and secured the sentence of the declaration of heirs in their favor, which is referred to in paragraph "g" of this pleading in answer.

(k) That the plaintiffs called Sy Bibo and Sy Biguel, were never recognized nor considered as descendants, heirs or relatives by the deceased Vicente Ruperto Romero Sy Quia, nor enjoyed the constant possession of the state of children or legitimate descendants of the same.

Therefore, the defendant Generoso Mendoza Sy Quia, prays the court to dictate sentence in favor of all the defendants absolving them from the complaint and condemning the plaintiffs to pay the costs.

Manila 18 of January, 1906.

(Sgd.)

M. LEGASPI FLORENDO,

*Attorney for Generoso M. Sy Quia.*

Received copy this 18th day of January, 1906.

(Sgd.) BISHOP & O'BRIEN,

*Attorneys for the Plaintiffs.*

Filed on the 18th of January, 1906 at 2.50 P. M.

(Sgd.)

J. McMICKING, *Clerk.*

40

(Title of Case Omitted.)

*Amendment by Way of Reply.*

Come now the plaintiffs in the above entitled case and replying to the answer of the defendants Petronila Encarnacion, Gregorio Sy-Quia, Pedro Sy-Quia, Juan Sy-Quia and Generoso Mendoza Sy-Quia by way of amendment to plaintiffs' complaint allege:

## I.

They deny generally and specifically each and every one of the material allegations of said defendants' answer.

## II.

That the alleged marriage of Vicente Romero Sy-Quia with the defendant Petronila Encarnacion as alleged, in said defendants' answers, was not a genuine and legal marriage, but on the contrary was false, fraudulent and of no legal force, effect and validity, and the alleged certificate of marriage attached and referred to — said defendants' answers is not a true and genuine certificate of marriage but on the contrary is a false, fraudulent and simulating certificate without any force effect or legal validity for the reason that on the said 9th day of June 1853 the said Vicente Romero Sy-Quia was, had been for a long time prior thereto and continued to be until the year 1891 the date of her death, lawfully married to Yap Buanju Sy-Quia as alleged in Plaintiffs' complaint, which said marriage of the said Vicente Romero Sy-Quia and the said Yap Buanju from the time of its solemnization about the year 1847 down to the time of the death of the said Yap Buanju in the year 1891 was continuously in full force and complete legal force, and that said Vicente Romero Sy-Quia contracted no marriage after the death of his said wife Yap Buanju Sy-Quia.

## III.

That Doña Apolinaria, Doña Maria, Don Gregorio, Don Pedro, and Don Juan alleged to be legitimate children of the  
41 said Vicente Romero Sy-Quia and the defendant Petronila Encarnacion, as alleged in paragraph six of said defendants' answer, are not and never have been the legitimate children of the said Vicente Romero Sy-Quia and are not and never have been his legitimate heirs and descendants and the certificates of baptism attached to said defendants' answer and designated as exhibits 3, 4, 5, 6 and 7 are not true and genuine but on the contrary are false, and fraudulent and of no legal effect and validity for the reason that the said persons are not and never have been the legitimate children of Vicente Romero Sy-Quia, deceased.

## IV.

Plaintiffs herein further amend their complaint and particularly paragraph IX thereof by striking out said paragraph and insert in place thereof the following.

## IX.

That on or about the 3rd day of August, 1900, the defendants and each of them unlawfully, without right and in the absence of the plaintiffs and each of them, took possession of all and every part of the real estate and personal estate of the said Sy-Quia otherwise known as Vicente Romero Sy-Quia, deceased and said defendant



and each of them have as aforesaid ever since been planning and administering the said real and personal estate of the said *Venerable* *Rector* *St. John* according to acts of ownership and dominion over said estate of the said *St. John* deceased.

W.

That plaintiff further amend their complaint and particularly paragraph X by striking out the whole of said paragraph and inserting in place thereof the following:

X.

That since on or about the said first day of August 1900 the said defendants and each of them have converted and are converting part of the estate of the said *St. John* to their and each of their own use and benefit and have converted a great part of said estate into other real and personal property belonging to the plaintiff and to each of them and said defendants and each of them are now in possession of such property as aforesaid, have the real and personal property left by the said *St. John* as aforesaid, exercising acts of ownership and dominion thereon.

(Sgd.)

EDWARD COPIHURST

*Attorney for Plaintiff*

Filed on the 14th of February 1900 at 10 A.M.

(Sgd.) J. MACKENZIE, Clerk.

(Name and Title of Case Officer)

(Order.)

Having heard the parties by means of their respective counsel on the motion presented by the plaintiff to be permitted to present a reply in the form of an amended complaint the Court is of the opinion that it is not necessary that such motion be made; the plaintiff have the right to present said reply without first obtaining permission of the Court.

The reply of the plaintiff in the form of an amended complaint is therefore admitted.

This is so ordered.

Made at P.H. February 2, 1900.

(Sgd.)

A. S. SCHLOSSER, Judge.

This eighth day of February 1900 cards of notification of their foregoing order were sent to the parties.

(Sgd.)

JOHN CASIMIRO

*Deputy Clerk*

43

(Title of Case Omitted.)

*Answer to the Plaintiffs Amended Complaint by Way of Reply.*

The defendants Doña Petronila Encarnacion, Don Pedro Sy Quia, Don Gregorio Sy Quia and Don Juan Sy Quia answering to the amended complaint by way of reply of the plaintiffs allege:

I.

That they deny each and every one of the allegations contained in the 2, 3, 4, and 5 paragraphs of the pleading in amendment by way of reply of the plaintiffs.

II.

That they ratify each and every part of the denials, allegations and defenses already made in their pleading in answer presented in the above entitled case, all of which denials, allegations and defenses are reproduced here.

Therefore these defendants reproduce their petition by means of their attorneys that the Court dictate sentence absolving them from the complaint at the costs of plaintiffs.

Also praying for what ever other remedy is considered proper in justice and equity.

Manila, P. I., February 7, 1906.

(Sgd.)

ROSARIO SANZ &amp; OPISSO,

*Attorneys for D. a Petronila Encarnacion,**D. Pedro Sy Quia and Don Juan Sy Quia.*

(Sgd.)

LEDESMA, SUMILONG &amp; QUINTOS,

*Attorneys for D. Gregorio Sy Quia.*

We received copy this 8th day of February, 1906.

(Sgd.)

BISHOP &amp; O'BRIEN,

*Attorneys for Plaintiffs.*

Filed this 8 day of February, 1906, at 10.15 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

44

(Title of Case Omitted.)

*Answer to the Amended Complaint.*

The defendant, Generoso Mendoza Sy Quia, answering to the amended complaint of the plaintiffs, alleges:

I. Denies each and every one of the allegations contained in the 2, 3, 4, and 5 paragraphs of the pleading in amendment by way of reply of the plaintiffs.

II. Ratifies each and every part of the allegations and defenses made in his foregoing pleading in answer, reproducing them here.



M. Legaspi Florendo, attorney for Generoso M. Sy Quia, Rosado, Sanz & Opiesso, attorneys for Pedro Sy Quia, Juan Sy Quia and the administrator of the estate of Petronila Encarnacion, deceased, and Ledesma, Sumulong & Quintos, attorneys for Gregorio Sy Quia, that the Hon. A. S. Crossfield is requested to issue a commission in the above entitled action, authorizing the Hon. American Consul, Vice Consul or consular agent of the United States in Amoy, China, to take the deposition of the following named witnesses on behalf of the plaintiffs in the above entitled action.

Sy-Leng, Sy-Ion Chan, Su-Kung-Leng, Sy-Bu-An, Sy-Kai-Ti, Seng-Hong-Peng, Yap-Si-Tan, Yap-Chong, Tan-Si-Sy, Yap-Si-Sy, Kim-Hock Him and Lung Bi and others.

The taking of such deposition to commence on the 27th day of August, 1906, at 8 o'clock A. M., and to be continued from day to day until completed. The said deposition to be taken in the English language, and the said Hon. Consul, Vice Consul or consular agent is authorized to designate and secure a competent interpreter in case the witnesses produced are unable to testify in the English language. The depositions are to be taken orally and without written interrogatories, and in case any of the witnesses are unable to personally appear in the consulate, the officer taking such depositions is authorized to take the depositions of such witnesses at their place of residence. Said depositions are to be taken, certified and returned as provided for by section 362 of the Code of Civil Procedure, all parties hereto, hereby reserving the right to object and except in all cases in which according to law it were necessary or convenient to do so.

It is further stipulated and agreed that, in case the defendants wish to take the deposition of any witness or witnesses in the Province of Amoy, that they are hereby authorized to take the same under the terms of this stipulation, the said plaintiffs waiving all notice as to a formal application as provided for by law.

Dated Manila, this 8th day of August, 1906.

(Sgd.)

M. LEGASPI FLORENDO,  
Attorney for Generoso M. Sy Quia.

(Sgd.) BISHOP & O'BRIEN,

Attorneys for the Plaintiffs.

47

(Sgd.) ROSADO, SANZ & OPIESSO,

Attorneys for Pedro Sy Quia, Juan Sy Quia and  
of the Administrator of the Estate of Petronila  
Encarnacion, Deceased.

(Sgd.) LEDESMA, SUMULONG & QUINTOS,

By JUAN SUMULONG,  
Attorneys for Gregorio Sy Quia.

(Title of Case Omitted.)

Come now Bishop & O'Brien, attorneys for the plaintiffs in the above entitled action and represent to the Court that the above named plaintiff Sy Juiniu died intestate in Amoy, China, on or about the

28th day of July, 1906, and that upon the 8th day of November, 1906, C. W. O'Brien was appointed by the Court special administrator of the estate of the deceased.

Wherefore attorneys for plaintiffs and for and on behalf of the said special administrator move that said action may be allowed to be continued by the said special administrator.

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs and Special Administrator.*

(Title of Case Omitted.)

Comes now C. W. O'Brien, the duly appointed, qualified and acting special administrator of the estate of Sy Juiniu, deceased, one of the original plaintiffs in the above entitled action, and does hereby elect to stand upon the original complaint and the amendment thereto by way of reply, as heretofore filed by the plaintiffs in said action, and for the purpose of avoiding repetition, does hereby make the said original petition and the amendment by way of reply, his pleadings as such special administrator for and on behalf of the estate of said deceased, as fully and to the same extent as if such original pleadings were signed and filed by this special administrator.

(Sgd.)

C. W. O'BRIEN,

48 *Special Administrator of the Estate of Sy Juiniu, Deceased.*

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs*

*and Special Administrator.*

We received copy this 12th of Nov., 1906.

(Sgd.)

ROSADO, SANZ & OPISSO.

Received.

M. LEGASPI FLORENDO,

LESESMAS, SUMULONG & QUINTOS.

Filed on the 13 of Nov. 1906, at 9 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

(Title of Case Omitted.)

*Appearance.*

Comes now C. W. O'Brien, the duly appointed, qualified and acting special administrator of the estate of Sy Juiniu, deceased, and enters his appearance as such administrator in the above entitled action.

(Sgd.)

C. W. O'BRIEN,

*Special Administrator of the Estate of*

*Sy Juiniu, Deceased.*

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs and Special Administrator.*

Received copy this 12th of Nov.

(Sgd.)

ROSADO, SANZ & OPISSO.  
LEDESMA, SUMULONG & QUINTOS.  
M. LEGASPI FLORENDO.

Filed on the 13th of Nov. 1906, at 9 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

49

(Title of Case Omitted.)

The undersigned, as attorneys for the parties in the above entitled case, make the following stipulation:

That the following documents of the defendants, copies of which have been attached to their respective pleadings in answer as Exhibits Nos. 1, 2, 3, 4, 5, 6, 7, and the letters A, B, C, are to be considered as authentic and original documents, instead of certified copies, and that said copies will have the same effect as the originals would if presented in the pleadings. The said documents more than others are to wit:

(a) Entry of the baptism of the Chinaman Vicente Ruperto Romero, known prior to being converted to Christanty as Sy Quia.

(b) Entry of the marriage of Vicente Ruperto Romero with Doña Petronila Encarnacion.

(c) Entry of the baptism of Apolinaria Romero y Encarnacion.

(d) Entry of the baptism of Maria Romero Sy Quia y Encarnacion.

(e) Entry of the baptism of Gregorio Romero Sy Quia y Encarnacion.

(f) Entry of the baptism of Pedro Antonio Sy Quia y Encarnacion.

(g) Entry of the baptism of Juan Nepomuceno Romero Sy Quia y Encarnacion.

(h) Entry of the burial of Maria Romero Sy Quia y Encarnacion.

(i) Entry of the baptism of Generoso Mendoza y Sy Quia.

This stipulation is made with the sole object of avoiding producing the originals which are bound in books with other documents which affect persons not interested in this litigation.

Manila, Nov. 17, 1906.

(Sgd.)

LEDESMA, SUMULONG & QUINTOS,  
*Attorneys for D. Gregorio Sy Quia.*

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys for D. Pedro and D. Juan Sy Quia and  
of the Estate of D. a Petronila Encarnacion.*

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorneys for Generoso Mendoza.*

50

(Title of Case Omitted.)

This case is before the Court for the hearing on the motion in which it is asked that this case be set for hearing and that the testimony of the witness Sy Quin be taken beforehand. The parties being heard through their respective counsell, the 22 of November, 1906, at 8 A. M. is fixed, and the 7th of January, 1907, at 8 A. M. for the definite trial.

It is so ordered.

Manila, P. I., 17th of November, 1906.

(Sgd.)

A. S. CROSSFIELD, Judge.

(Title of Case Omitted.)

The defendants in the above entitled case, by means of their attorneys, respectfully pray the Court not to admit the depositions taken before the Consul of the United States of America in Amoy, China, of the witnesses for the plaintiffs Li Ung-Bing, Sy Peng, Lim Chio, Yap Si Tan, Yap Chio, Sy Kai Tit, Yap Chong, Sy Boan, Sy Kong Leng and Sy Hong On, which the said plaintiffs intend to present in the above mentioned case.

This motion is based on the fact that the depositions of said witnesses suffer from the formal defect in respect to the oath taken by them.

Manila, January 4, 1907.

(Sgd.)

ROSADO SANZ &amp; OPISSO

Attorneys of the Estate of Doña Petronila Encarnacion of Don Pedro Sy Quin and Don Juan Sy Quin.

(Sgd.)

LEDESMA, SUMULONG, &amp; QUINTOS.

Attorneys for D. Gregorio Sy Quin.

(Sgd.)

M. LEGASPI FLORENDO.

Attorney for D. Generoso Mendoza Sy Quin.

51.

(Title of Case Omitted.)

The defendants in the above entitled cause, by means of their attorneys, respectfully pray the Court not to admit the depositions taken before the Consul of the United States in Amoy, China, of the witnesses for the plaintiffs Li Ung-Bing, Sy Peng, Lim Chio, Yap Si Tan, Yap Chio, Sy Kai Tit, Yap Chong, Sy Boan, Sy Kong Leng, and Sy Hong On, and which said plaintiffs intend to present in the above said case.

This motion is based on the ground already set forth in the motion presented this day, to wit: that the declarations of said witnesses suffers from the formal defect in the oath taken by them, as well as that the certificate appended by the functionary charged with taking the



depositions of said witnesses does not contain the essential requisites required by the Law.

Manila, 4th of January, 1907.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys of the Estate of Petronila Encarnacion and D. Pedro and D. Juan Sy Quia.*

(Sgd.) LEDESMA, SUMULONG & QUINTOS,

*Attorneys for Gregorio Sy Quia.*

(Sgd.) M. LEUASPI FLORENDO,

*Attorney for Generoso Mendoza Sy Quia.*

(Notification to counsel for plaintiffs of the date of presentation of this notice and when it will be called for hearing, signed by the various attorneys for the defendants is omitted.)

Filed on the 5th of January, 1907 at 11 A. M.

(Sgd.)

\_\_\_\_\_, Clerk.

52

(Title of Case Omitted.)

I hereby make it appear that in compliance with the order of the Honorable A. S. Crossfield, Judge of the Court of 1st Instance of Manila, on the 17th of January, 1907, I proceeded to open a box coming from Amoy, China, which was addressed in the following manner:

"Court of the First Instance, Manila, P. I. U. S. A. Deposition and Defendants' Exhibit 'A.' Plaintiffs' Exhibits 1, 2, and 3. In re Sy Yoe Lieng et al. Plaintiffs, vs. Petronila Encarnacion et al. Defendants. From Ren Hanna American Vice Consul, Amoy, China."

and at the request of the attorneys for the plaintiffs I proceeded to open the Exhibits Nos. 1, 2 and 3 which came wrapped in sealed paper and Chinese cloth. On the 22 of January, 1907, at the request of the defendant and in compliance with the judicial order above mentioned, I proceeded to open the depositions which were sealed and which were found in the said box coming from China.

And that it may so appear I sign the present in Manila this 22nd day of January, 1907.

(Sgd.)

J. McMICKING,  
*Clerk of the Court of 1st Instance  
of Manila, P. I.*

J. McM./M. S.

Exhibits Nos. 4, 5, 6, are omitted, being four pages containing Chinese characters written opposite to names and Numbered. Exhibits "A. B., AC, AC one and AD, and AE are omitted being papers containing names, Chinese characters and names written opposite to Chinese characters.

Office of the Notary Public, Eustaquio Villablanca de Mendoza.

Plaza Santa Cruz, No. 32.

First attested copy of the deed No. 582 of the registration of the summary proceedings in perpetuation of testimony conducted in the Court of the District of Quiapo regarding the ownership of a group of three houses and accessories, and four warehouses, situated on the Plaza de Calderon de la Barea, executed by the spouses D. Vicente Romero Sy Quia and Doña Petronila Encarnacion, on the 17th day of November, 1885.

Stamped paper for the years 1884 and '85, 8 pesos. N. O. 003.016.

Numbered five hundred and eighty-two.

In Manila and its suburb of Santa Cruz on the seventeenth of November of one thousand eight hundred and eighty-five: Registration is made in my present public register of the summary proceedings in perpetuation of testimony conducted in the Court of the District of Quiapo, at the instance of the spouses Don Vicente Romero Sy Quia and Doña Petronila Encarnacion, to the effect that on their own lot, situated in the suburb of Binondo, acquired from the State by purchase, facing on the Plaza de Calderon de la Barea, on the right of your entrance by the river of said suburb, on the left by Calle de Jolo half way and by another property and lot of the said spouses, and at its back by that of Don Miguel Fabie, the measurements of which appear in the document of sale executed in favor of the same, they ordered constructed, with their own funds, on the said

54 lot a group of three houses and accessories, built of strong material and roofed with galvanized iron; and in the interior four warehouses roofed with tiles, the same having cost with material and labor — sum of forty-eight thousand pesos; in the order upon these proceedings which were executed in legal form it was declared sufficient and the registration thereof in my register was directed, and which in effect I do, attaching them to the appendix or respective volume of the registry, after extending the present minutes. And that it may so appear I make this special note, which I, the Clerk, sign and certify.—Eustaquio V. de Mendoza. (Rubric on margin).

Sr. Alcalde Mayor de Quiapo—The spouses Don Vicente Sy Quia, of legal age, resident of the suburb of Binondo, property owner, with personal cedula of the second class No. 30, and Doña Petronila Encarnacion, of legal age, resident of the same, with personal cedula of the 6th class No. 1558, in due legal form respectfully state to Your Honor: That on our lot situated in the same suburb, which we acquired from the State by deed of purchase, which fronts on the

Plaza Calderon de la Barea, on the right side of its entrance by the river of said suburb, on the left by Calle de Jolo half way, and by another property and lot of the said spouses; and at its back with that of Miguel Fabie, the measurements of which appear in the document of sale executed in our favor by the State. Now then, on the described property we ordered constructed with our own funds a group of three houses and accessories, built of strong material with galvanized iron roof, and in the interior four warehouses with tiles roofs, which constructions cost us the sum of forty-eight thousand pesos; and in order to substantiate the correctness of all we have stated we find it necessary to prove it by means of a summary information of witnesses, by means of which will appear for all

55 time our ownership of the said properties and that the same will serve us as a title to that effect: We petition Your Honor to admit the summary information of witnesses which we offer to the effect stated, with the summoning of the Prosecuting Attorney; and after all other proceedings, if sufficient, to approve the same according to law, declaring the said properties to be ours with the condition that it be without prejudice to a third party, registering the proceedings in the registry of one of the public Clerks and Notaries of this Capital, and that an attested copy of it be issued to us to be used as may be convenient. It is justice which we ask and in case of necessity we will swear to it. Manila, Twenty-sixth of October one thousand eight hundred and eighty-five. V. R. Sy Quia. Petronila Encarnacion.

This document presented and the personal cedulae exhibited, the first being of the second class No. 30, and the second of the 6th class No. 1558, and Hr. Judge was advised thereof for disposition, this twenty-sixth day of October, one thousand eight hundred and eighty five. I certify. Barrio.

Court of the District of Quiapo, the twenty-sixth of October, 1885. Order. The foregoing document being presented let the summary information of witnesses be received with the summoning of the Prosecuting Attorney, advising the petitioners to present before this Court the witnesses which they intend to make use of, whom upon appearing will testify under oath as to the facts set forth in the foregoing petition; let an order be issued to the Gobernadorcillo de Mestizas of Binondo in order that he together with his Board of Chiefs, give information as to the ownership of the said property with the approval of the Rev. Parish Curate; by means of the Official Gazette of this Capital let summons be made on the persons believing themselves to have the right to said property in order that they, within nine days

56 from the publication of the notification they may appear in this court either personally or by means of a solicitor duly instructed and required to plead it, with the understanding that in default thereof, within the period fixed, that which is proper will be done, and upon the termination of the said period the actuary will make note of the oppositions if there be any, and that a copy of the said Gazette, in which the said notice is inserted, be attached to these proceedings and when all is completed the same to be delivered to the Prosecuting Attorney for comment. Provided and signed by

His Honor to which I certify. Francisco Enriquez, Plácido del Barrio.

Be it known that this twenty-sixth day of October one thousand eight hundred and eighty-five, an order for information was issued to the Gobernadoreillo de Mestizos of Binondo, and a copy of the notice was officially forwarded to the Hon. Secretary of the General Government. To which I certify. Barrio.

In Binondo the twenty-sixth of October, one thousand eight hundred and eighty-five, I notified the spouses D. Vicente Sy Quia and D. a Petronila Encarnacion of the foregoing order and delivered copy thereof which was understood and they signed. V. R. Sy Quia, Petronila Encarnacion. Barrio.

In Quiapo the twenty-sixth of October, one thousand eight hundred and eighty-five, I notified the Prosecuting Attorney of the foregoing order whom being informed thereof accepted summons and signed to which I certify. Nubla. Barrio.

I make it appear that this thirty-first day of October, one thousand eight hundred and eighty-five the spouses D. Vicente Sy Quia and D. a Petronila Encarnacion appeared in this Court and place of my employment, bringing with them their witnesses the Chinaman Joaquin V. Pangeo, Yu Singco and Yu Ong Ponceo, of which I advised the Court for his information, to which I certify. Barrio.

57 In the Court of the District of Quiapo, the thirty-first of October, one thousand eight hundred and eighty-five, the Honorable Judge, having before me the Christian Chinaman Joaquin V. Pangeo, widower, native of Lamua, Chinese Empire, of legal age, domiciled in the suburb of Santa Cruz, by occupation a carpenter, listed in the Administracion de Hacienda Publica of this province under No. 206, of whose personal circumstances I know and certify to, administered the oath and which was sworn in legal form, offering in virtue thereof to tell the truth about all he knows and may be asked. And having been Asked in regards to the contents of the foregoing document, which was read to him and was thoroughly understood without the aid of an interpreter, he possessing a fair knowledge of Spanish, he Stated: That the property referred to in said document is the property of the spouses D. Vicente Sy Quia and D. a Petronila Encarnacion because they are the one who ordered its construction out of their own funds, the deponent being the one who directed the work of the same as master. This declaration was affirmed, ratified and signed after his Honor, to which I certify. Enriquez. Joaquin Hu Pongco. Plácido del Barrio.

Continuing on the thirty-first, of October, one thousand eight hundred and eighty-five, the Hr. Judge before me the Clerk, having present the Chinaman Yu Singco, native of Lamua, Chinese Empire, of legal age, domiciled in the suburb of Santa Cruz, by occupation a carpenter, registered in the Administracion de Hacienda Publica under the No. 7104, whose personal circumstances I know and certify to, and being sworn in legal form, offering to tell the truth about all he knows, and he was asked: concerning the facts in the foregoing document which was read to him at the time, and under-

58 standing the same without the aid of an interpreter because he knows Spanish, Stated: That the property described in the said document, is the property of the spouses who subscribed the same, because they are the ones who ordered the construction thereof with their own funds, the deponent being one of those who worked on the same as a carpenter. This declaration was affirmed, ratified and signed after His Honor to which I certify. Enriquez. Yu Sineo, Placido del Barrio.

Continuing the thirty-first of October, one thousand eight hundred and eighty-five, the Honorable Judge, before me the Clerk, having present the Chinaman Yu Ong Ponce, a native of Chinesean, Chinese Empire, of legal age, domiciled in the suburb of Santa Cruz, by occupation a mason, registered in the Administracion de Hacienda Publica of this province under the No. 8724, of whose personal circumstances I certify and know, administered the oath and which was given in legal form, offering in virtue thereof to tell the truth about all he knows, and he was Asked concerning the contents of the foregoing petition which was read to him at the time and was understood without the aid of an interpreter, because he knows Spanish, Stated: That the property described in the said petition is the property of the subscribing spouses, who ordered the construction thereof with their own funds, the deponent being one of those who had worked on the same as a mason. This declaration was affirmed, ratified and signed by him in his national style, after H. H. to which I certify. Enriquez. Then comes a Chinese signature. Placido del Barrio.

I make it appear that since the thirty-first of October, last past, on which date the notice attached hereto summoning the persons who believe themselves to have a right to the property, the object of the present proceedings, was published in the Official Gazette of this Capital, none presented to make any opposition to this date, the period for which having past with considerable excess. Which I make appear in these proceedings this twelfth day of November, one thousand eight hundred and eighty-five. To which I certify. Barrio.

59 In Quimpo, the twelfth of November, one thousand eight hundred and eighty-five, I read to and notified the Prosecuting Attorney of the foregoing order, informed of which he signed and received these proceedings under receipt and numbering of pages. To which I certify. Nubla. Barrio.

The Gobernadorcillo de Mestizos of Binondo, with the Board of Chiefs and the approval of the M. R. Parish Curate, will subsequently give information as to the ownership of a group of three houses and accessories, constructed of strong material and roofed with galvanized iron; and four warehouses roofed with tiles, in the interior, situated on Plaza de Calderon de la Barca in that suburb, which adjoin in front on the same plaza, on the right side of its entrance with the river of said suburb; on the left with Calle de Jolo half way, and another property and lot of the petitioners, and at the back with that of Don Miguel Fabie; to be considered in the proceedings instituted by the spouses Don Vicente Sy Quia and Doña Petronila Encarna-

cion, regarding the ownership of said property. Complete and return with the least possible delay. Quiapo October 26, 1885. Enriquez.

Sr. Alcalde Mayor of the District of Quiapo. The Gobernadorcillo and the Board of Chiefs of this suburb and guild of Mestizos, having completed the information required in the foregoing order, respectfully manifest to Your Honor:

That it is of common knowledge in this suburb that the group of three houses and accessories constructed of strong material with roof of galvanized iron, the four warehouses roofed with tiles, situated on the Plaza de Calderon de la Bares, whose boundaries are set forth in said order, are the property of the spouses Dn. Vicente Sy Quia and Da. Petronila Encarnacion, having been constructed with their own funds. That is all that can be said in honor of the truth, with the approval of the M. R. Parish Curate of this suburb. Binondo, October 30, 1885. Mar. no Limjap. Then the signatures Agaton Sagatusa, an illegible signature, B. A. Bernardo, A. J. Nepand, n. Ciriano P. del Ros, o. Felix Evaristo, Victoriano Ongjunco, Ancieto Yateo, Eduardo Fernandez, Jose C. Lippo.

By provision of the Sr. Alcalde Mayor of the District of Quiapo, entered in the proceedings of the perpetuation of the summary information proceedings instituted by the spouses D. Vicente Sy Quia and Da. Petronila Encarnacion, regarding the ownership of three houses and accessories built in group, constructed of strong material with galvanized roof; and four warehouses with tile roofs in the interior of a lot of their property, situated on the Plaza Claderon de la Bares, which properties adjoin in the front with the same plaza of the same name, on the right side of its entrance with the river of said suburb, on the left with Calle de Jolo, half way, and with another property and lot of the petitioners, at its back with that D/n Miguel Fabie, the persons believing themselves to have a right to the described properties are summoned and called, in order that they may, within a period of nine days, counting from the date of the publication of this notice in the Official Gazette of this Capital, appear to plead it before this Court, either personally or by means of a solicitor instructed and requited, with the knowledge that in default thereof within the time fixed, that which is proper will be done. Quiapo and Clerk's office of my charge, the 26th of October 1885. Placido de Barrio.

The Prosecuting Attorney after considering this information said: That it being established in the same that the properties were constructed with the private funds of the spouses Vicente Sy Quia and Petronila Encarnacion it is proper that they be declared the owners of the same without prejudice to a third party with a better right. Manila, twelfth of November one thousand eight hundred and eighty-five. Elias M. Martinez. Nubla. Fiscal fees one peso.

These proceedings being returned by the Prosecuting Attorney they were placed in the office of the Hr. Judge for disposition, this twelfth day of November, one thousand eight hundred and eighty-five. Which I certify. Barrio.



Court of the District of Quiapo, the thirteenth of November, 1885. Order. This ex parte proceeding instituted by the spouses D. Vicente Sy Quia and Da. Petronila Encarnacion regarding the ownership of the three buildings and accessories in group, constructed of strong material with galvanized iron roofs, and four warehouses with tiled roofs in the interior, situated on the Plaza Calderon de la Barea of the suburb of Binondo, and which adjoins in front with the said plaza, on the right side of its entrance with the river of said suburb, on the left with Calle de Jolo half way, and with another property and lot of the petitioners, and at the back with that of D. Miguel Fable, having been considered;

And it appearing by the unanimous depositions of the Chinaman Joaquin V. Pango, Yu Singco and the Chinaman Yu Ong Ponce, that the ownership by the said spouses D. Vicente Sy Quia and Petronila Encarnacion, of the above mentioned properties, is fully established, which is corroborated by the non presentation by any person of any opposition to the claims of the petitioners during the period fixed in the notice of convocation, and by the report of the Gobernadorcillo and the Board of Chiefs of Mestizas of said suburb;

And it appearing that these proceedings were conducted in legal form, His Honor, in accordance with the preceding recommendation of the Prosecuting Attorney, before me, Stated:

62 Let the same be approved according to law, with the condition that it be without prejudice to a third party with a better right, and that consequently the properties referred to be declared the property of the spouses D. Vicente Sy Quia and Da. Petronila Encarnacion, and that the proceedings be registered in the registry of the Clerk of this Court, Don. Eustaquio V. de Mendoza, issuing a true and certified copy to the interested parties if requested. Ordered and signed by the Honorable Judge, to which I certify, Francisco Enriquez. Placido del Barrio.

In Quiapo the thirteenth of November, one thousand eight hundred and eighty-five, I notified the Prosecuting Attorney of the foregoing order? Being informed with copy he signed. To Which I certify. Nubla. Barrio.

In Binondo the thirteenth of November, one thousand eight hundred and eighty-five, I notified and informed the spouses D. Vicente Sy Quia and Da. Petronila Encarnacion, of the foregoing order. Acquainted therewith they both signed. Which I certify. V. R. Sy Quia. Petronila Encarnacion. Barrio.

I make it appear that this seventeenth day of November, one thousand eight hundred and eighty-five, in compliance with the provisions contained in the foregoing order, I registered these proceedings in the registry of the present year and issued a first attested copy thereof to the interested spouses D. Vicente Romero Sy Quia and Da. Petronila Encarnacion, employing two sheets of Ilustres stamped paper between which, one Sello 3.0 for the current term of two years, whom after having received the same both signed this proceeding which I copy. To which I certify. V. R. Sy Quia. Petronila Encarnacion. Mendoza.

The foregoing is literally in accord with the original proceedings



which are on file in the appendix or separate volume of the documents registered before me in the present year to all of which  
 63 I refer, and at the request of the spouses Vicente Sy Quia and Doña Petronila Encarnacion, I made this first attested copy on two sheets of ~~Hustres~~ stamped paper between which is one sheet of 3.0 class stamped paper of the present term of two years, which I seal, sign and rubricated in Santa Cruz and my place of business the seventeenth day of November one thousand eight hundred and eighty-five. Which I certify. Amendments: se las—m. Erasures: de Calderon de la Barca; de Calderon de la Barca; de Calderon de la Barca Valid.

[NOTARIAL SIGN.]

EUSTQUIO V. DE MENDOZA.

Rubric.

(Rubric on each sheet.)

(Two pages of original contain illustrated stamp: Ilustres As 1184 and 85 8 Pesos.)

One page contains illustrated stamp Sello 3.0 as 1884 y 85. 250 Mil. s dE. Peso.)

64

EXHIBIT D. 1. 4164.

02155.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS.

EXECUTIVE BUREAU.

DIVISION OF ARCHIVES, MANILA.

There is an adhesive stamp of 124/8 C de Peso. April 15, 1887. Page two hundred and thirty-five 235.

General powers, for various purposes executed by Don Vicente Romero Sy-Quia, in favor of his wife and son, Doña Petronila Encarnacion, and Don Pedro Romero Sy Quia. Number ninety-eight.

In Manila the fourteenth of May, one thousand eight hundred and eighty-seven. Before me, Don Vicente Santos, Notary Public of this Capital, and the witnesses mentioned at the end, appeared Don Vicente Romero Sy Quia, married, native of Amoy, China, resident of the suburb of Binondo, with second class personal cedula number one, issued by the Administracion de Hacienda Publica of this province, on the first of July of last year, whom I certify to know to be of legal age, and after being assured that he was in full exercise of his civil rights and with the necessary legal capacity for the purposes of this public instrument of mandate, without anything to the contrary being known to me, and without the need of an interpreter because he possesses Spanish, he stated: That having to absent himself to go to his Country, and desiring to leave persons in this Capital to represent him in all his business, by these presents, executed in the proper legal form he agrees: To give and confer full, sufficient and necessary general powers, as required by law, to his son, Don Pedro Romero Sy Quia, and his wife, Doña Petronila Encarnacion, to whom he specially concedes by this document the

necessary marital permission required by the Law of Toro Number fifty-five both of legal age and also residents of this suburb, representing his person, rights and actions to intervene indiscriminately in all the business which he actually has or may later acquire, either judicial or extrajudicial, to which end they are amply authorized to administer all his property, attending to its conservation and increase with the best care and vigilance, giving it in lease

65 for the price, time, and conditions which they deem proper, collecting the rents and profits, ousting occupants and tenants, exercising in consequence thereof all other proper actions of a jealous administrator, to demand, collect and receive all amounts of money, valuables or other effects due and belonging to speaker of whatever source or conception, and from whatever class of persons or corporations; to pay what is owed in a just manner, issuing and requiring the proper receipts, pay-rolls, and drafts, and other documents for payments and collections; to sell, hypothecate, change, give and take in lease, all kinds of personal and real property, to redeem and relieve it of all encumbrance at the price, form, and manner which they deem proper, to borrow and lend money with the formalities and securities as are proper in such cases; to pay into and withdraw funds from the deposit box in this City or the mercantile banks in this place, to collect their respective interest, renew the drafts and negotiate them, if they deem it convenient, as the price, form and manner, that they may judge proper, to render and require accounts to and from those to whom they should be rendered and required, approving those found to be just, and protesting those which are not, setting forth the errors contained therein and demanding the proper reparation or indemnification; to collect, receive and assume charge of all that belongs to the speaker, by reason of inheritance, legal trust, or from whatever other source or title, intervening in virtue thereof in all testamentary or intestate proceedings whatsoever in which the speaker may have an interest, as well as in the formation of inventories, appraisements and distributions of property, appointing expert appraisers, accountants and distributors and other persons who may have to intervene in said proceedings, as well as the agents

66 and solicitors which they deem necessary; to execute and sign the public, private and other documents formulated in virtue of said proceedings; contracts and obligations celebrated or contracted, taking care to prepare them with the requisites and solemnities required and last to conduct all the proceedings inherent and necessary for the most ample administration.

He confers at the same time full and complete power upon his said son and wife, in order that, in case of necessity, they can represent him in all judicial business, civil, criminal, administrative and governmental which he has or may have over all matters of law or fact whatsoever, authorizing them in virtue thereof to appear before the Courts and competent authorities, presenting complaints, answers, replies, rejoinders and all other documents which may be proper, to celebrate and assist in the acts of conciliation, hearings of civil faults, to forward the ordinary and special and other means proper in such cases to furnish all class of proof to impeach and contradict that presented by the opponents, to accuse, refuse, estab-

lish, and acquit positions, to formulate incidental articles and interventions, take oaths, admit subpoenas, summons and demands, to solicit attachments, releases, apprehensions, acquittals, sales, foreclosures, appoint experts including third parties in case of discord; to hear interlocutory orders or final decrees and other judicial determinations, accepting those found to be just and favorable and appealing or having recourse to, and petitioning before the proper parties against the afflictive ones, utilizing to this end all the recourses established by law either ordinary or extraordinary, continuing the same through all their proceedings until final determination; to compromise questions or differences if they deem it proper; and last that they do and execute everything that the speaker would do if present and directly intervening in said business, in fact the power

for all set forth and all that may be incident thereto, or  
67 connected therewith and required and necessary, is conferred upon the above mentioned Don Pedro Romero Sy Quia and Doña Petronila Encarnacion, without any limitation, approving and ratifying everything which they may do in virtue of the present, all other clauses which may be deemed proper and necessary, including the annulment of this power in whole or in part, to properly relieve substitutes and appoint others in their stead guaranteeing the performance of their duty with the property they now have or may acquire in the future, to be considered as inserted herein. It was so declared, executed and signed, Don Benigno Coronel and Don Isidore Adapon, residents of this Capital and known to me, being the subscribing witnesses; to all of which I certify.

Between lines to be of legal age—Amendments—libr—Valid—, Follows a rubric. V. R. Sy Quia, rubricated; Benigno Coronel rubricated. Isidoro Adapon rubricated. Before me—Vicente Santos—On the margin: At the request of the interested party this first copy was issued on two sheets of the regulation stamped paper of the seventh class, to which I certify.—Santos—rubricated.

I certify that the foregoing copy is literally taken from the original which is on file in this office which I sign and seal in Manila, the twenty-eighth of January, one thousand nine hundred and seven. (Sgd.) M. de Yriarte, Chief, Division of Archives. Exoficio Notary Public.

Dry seal. 20C Documentary stamp. Cancelled with No. 02155 stamped on it.

fr. 4.

68

02152.

Ex. D. 2.

The Government of the Philippine Islands,

Executive Bureau,

Division of Archives, Manila.

Number Six Hundred and One.

In Binondo, suburb of the City of Manila, the ninth of December, of the year one thousand eight hundred and eighty-eight, before me the Royal Notary by his Majesty made public of the number of this Capital and its province, and the witnesses who will be mentioned, appeared Don Vicente Romero Sy Quia, Christian Chinaman, residing in the suburb of Binondo, of legal age, who, after being assured that he was in full exercise of his civil rights, with the necessary legal qualifications and capacity to prepare this public instrument of mandate, and being known to me to which I certify: Stated:

That he authorizes, gives and confers his full, complete and ample, general powers, and as full as required by law, upon his son Don Gregorio Romero Sy Quia, resident of the town of Vigan, province of Ilocos Sur, in order that in his name, and using his rights and actions, he care, govern and administer all the property, interests, and business, which the grantor has or may later acquire in said province of Ilocos Sur, whatever its class, character or nature, procuring that it always be productive and beneficial to the grantor, receiving the rents for the real property and the profits of the interests and business, making the necessary repairs of the same out of the funds which he collects as is the duty of a wise and jealous administrator. In order to make contracts of purchase, sale barter, mortgages, leases, sub-leases, compromises, and other lucrative contracts with any communities, corporations and private persons of all class, sex and condition, with the compacts which he believes proper, under the necessary security executing in such cases

69 or having executed in favor of the grantor the consequent writings and documents with the formalities established by law for their greatest validity and legality. In order to collect, gather and receive the amounts or sums of money, effects or articles which belong or may correspond to the grantor from whatever source, title or reason, giving and issuing the receipts, drafts and other securities that may be required and he believes necessary to give. In order to make just and legal payments of debts owed and payable by the grantor, requiring from the corresponding parties the necessary protection. In order to borrow and loan money with or without interest in cases where his transactions require it, executing the consequent documents with the necessary security. In order to sign notes and execute all kinds of documents in favor of the corresponding party according to the contracts entered into. In order to require and render accounts, approving or protesting them

according as he may see fit. In order to present and appear before the officials of the State and government in cases heard therein, presenting petitions, writings and briefs consequent thereto, continuing and terminating the cases until their final determination. In order to be present and appear likewise in all judicial matters and tribunals and principal courts of that province, in the capacity of plaintiff or defendant, instituting to that end the proper petitions, process, solicitud-s, exeptions, answers, accusations, cross-complaints, challenges, rejoinders, replicas, proof impeachments allegations terms and any and all recourses authorized by law, continuing the trials through all their course and proceedings until final execution and complete performance thereof. In order to assist in meetings

70 and assemblies of creditors by means of voice and vote, celebrate agreements of conciliation orally and in writing, compromise suits of whatever character, formulate incidental proceedings, raise incontestable articles, present evidence, establish, acquit positions, solicit apprehensions, attachments, releases, dismissals, ejections, hear orders, decrees and interlocutory and final decisions, accepting the favorable ones and interposing appeals from the afflictive and prejudicial ones, praying and presenting the other ordinary and extraordinary recourses, according to law to the corresponding authority. Finally, in order to do and perform all the acts, steps and efforts which the grantor would do and perform if he was present; in fact giving and conferring on his said son Don Gregorio Romero Sy Quia, without any limitation, all the power necessary to perform that set forth with the incidents and accessories thereto, confirming and ratifying everything performed and done, in virtue thereof, considering as inserted herein all the other special and necessary clauses, which may be required, including the appointment of substitutes with this power in all or in part, properly relieving substitutes and appointing others in their stead. To the performance of which he pledges the property he now has or may later acquire. It was so executed and signed with, and in the presence of the witnesses Don Honorio Arroyo, Don Jacinto Antonio and Igmidio Francisco, residents of this Capital and known to me; to all of which I certify. R. Sy Quia rubricated—Honorio Arroyo rubricated—Jacinto Antonio rubricated—Igmidio Francisco rubricated. Before me Felix Dujua rubricated. On the margin: Power for judicial and extrajudicial matters. Executed by Don Vicente Romero Sy Quia, in favor of his son Don Gregorio Romero Sy Quia. First copy was given to the interested party on one sheet of stamped paper of the second class for the present term of two years. I certify. Dujua rubricated.

I certify that the foregoing copy is literally taken  
71 from its original which is on file in this office, which I sign and seal in Manila the twenty-sixth of January, one thousand nine hundred and seven.

(Sgd.)

M. DE YRIARTE.

*Chief Division of Archives, ex-Officio Notary Public.*

20c Internal Revenue stamp cancelled by No. 02152 on its face.

[SEAL.]

fr.

72

## Department of Public Instruction,

## Bureau of Archives, Manila.

There is a seal which says *Fabrica Nl de la Monela y Timbre—1898 y 99. Stamp 10.o 25 C de Peso. N. 1.059.025.—Three thousand four hundred and fifty-four. 3454. U. S. Military Government 1900 Internal Revenue.—*

Minutes of registration of the record regarding the proceedings of inventory, distribution, and adjudication of the property, rights and shares, which constitutes the estate of Don Vicente Romero Sy Quia. Number five hundred and forty-nine.

In Manila the seventh of August, one thousand nine hundred: Before me Don Jose Maria Rosado y Calvo, Attorney and Notary Public of this City of Manila, with residence and domicile in the same, appeared Don Francisco R. Cruz, Probate Clerk of the Court of First Instance of the District of Intramuros, who exhibited and delivered to me the record of the proceedings had in said Court regarding the approval of the proceedings, inventory, distribution and adjudication of the property, rights and shares which constitutes the estate of the deceased Don Vicente Romero Sy-Quia, conducted and completed by Don Felipe Gonzales Calderon and Don Vicente Foz, appraisers and distributors appointed, the first by Don Generoso Mendoza y Sy-Quia and his father Don Eustaquio Mendoza, and the second by the other interested parties in said estate, the widow Doña Petronila Encarnacion y Singson and the heirs Don Gregorio, Don Pedro and Don Juan, surnamed Sy Quia y Encarnacion, in which proceedings the opportune order of approval was entered on the third of the present month of August, dictated by Don Jose Basa Enriquez, Judge of the first instance of the said district, in the presence of the Clerk of the same court, Don Francisco E. Cruz, in which the registration thereof in the registry of the undersigned Notary is ordered, which order copied literally is as follows: Court of

73 1st Instance of Intramuros the third of August, 1900. Order.

It appearing that on the second instant Doña Petronila Encarnacion y Singson, widow, Don Mena Crisologo y Pecson, in representation of Don Gregorio Romero Sy Quia y Encarnacion, whose personality is justified by the power on f.o 70, Don Pedro and Don Juan Romero Sy Quia y Encarnacion, Don Generoso Mendoza Sy Quia, married, with his guardian Don Felipe Calderon, whose authority is justified by the certification on f.o 51, and Don Arcadio del Rosario in representation of Don Eustaquio Mendoza, justifying his personality with the power on f.o 74, presented the writing on f.o 78 manifesting that the said Don Felipe Calderon and Don Vicente Foz y Romasanta, attorneys appointed by the same appraisers and distributors of the property, rights and shares of the deceased Don Vicente Romero Sy-Quia, husband of the first, father and grandfather respectively of the last, have performed the proceedings of distribution of the said estate, the same being attached hereto on f.o 1 to 47, and manifesting themselves satisfied with the



said proceedings, and that it being necessary according to the spirit of Art. 1060 of the Civil Code that the same be judicially approved in order to complete them because Don Generoso Mendoza is a minor, praying that, the said proceedings having been presented with the other documents attached thereto, the same be approved, directing that they be registered in the Office of the Notary Public Don Jose Maria Rosado; And it appearing that the petitioners ratify the contents of the said writing upon the division of the business which corresponded to this court and the Office of the present actuary; And it appearing that the distributional proceedings presented by the petitioners have been performed in accordance with article 1060 of the Ley de Enjuiciamiento and the amount thereof being the same as the amount of property of the estate to be divided; And it appearing that all the interested parties are satisfied

74 with the said proceedings of distribution. It is just that the approval prayed for be granted.—The Honorable Don José Basa Enriquez, Judge of the first instance of the District of Intramuros, before me the Clerk stated: Let the proceedings of distribution of the property which constitutes the estate of the deceased Don Vicente Romero Sy-Quia be approved, registering these proceedings in the Registry of the Notary Public of this Capital, Don Jose Maria Rosado by whom the certification which the interested parties may ask will be issued. So ordered and signed by H. h. to which I certify. E. Jose Basa. Before me Franco R. Cruz." The foregoing is literally in accord with the original to which I refer. And in compliance with the provisions of the above inserted order I proceed to register the said record, composed of ninety-eight useful pages, attaching it to the present minute which I extend in the presence of the witnesses Don Tomas de la Cruz y Ortiz and Don Pio Santillan y Ordoñez, both employees, of legal age and residents of this Capital, whom, after having read it in the exercise of the rights which the law concedes them and with which I made them acquainted, signed it in my presence because they found it correct and approved the additions: Y: u: la; a. To all of which I certify. Tomas de la Cruz—rubricated—Pio Santillan—rubricated. Ldo. Jose M. a Rosado y Calvo, rubricated. There is a seal of the Notary.

NOTE: On this date, the twenty-fifth of August, one thousand nine hundred, I issued a first copy of the foregoing minute and proceedings of distribution to which the same refers at the instance of Doña Petronila Encarnacion y Singson, extended on one sheet of stamped paper of the first class and sixty-three of the tenth, all authorized for the present year, to which I certify. Rosado. Rubricated.

NOTE: On this date, the fifteenth of September, one thousand nine hundred, I issued a first copy of the foregoing

75 minutes, the part of the inventory and adjudication to Don Pedro Sy Quia y Encarnacion and the order approving the proceedings of distribution to which the same refers, at the instance of Don Pedro Sy Quia y Encarnacion, extended on one sheet of stamped paper of the first class and thirty-six of the tenth, all



authorized for the present year, to which I certify. Rosado. Rubricated.

NOTE: On this date, the twenty-seventh of September, one thousand nine hundred, I issued a first copy of the foregoing minute, the part of the inventory and adjudication to Don Gregorio Sy Quia y Encarnacion, and order of approval of the proceedings of distribution to which the same refers, at the instance of Don Gregorio Sy Quia y Encarnacion, extended on one sheet of stamped paper of the first class and thirty-eight of the tenth, all authorized for the present year, to which I certify. Rosado. Rubricated.

Don Felipe Gonzalez Calderon, married, and Don Vicente Foz y Romasanta, single, both attorneys, of legal age and residents of this Capital appraisers appointed to liquidate and distribute the estate left by the deceased Don Vicente Romero Sy Quia, the first by Don Generoso Mendoza y Sy-Quia, and his father Don Eustaquio Mendoza, and the second by the other interested parties in said estate, the widow Doña Petronila Encarnacion y Singson, and the heirs Don Gregorio, Don Pedro and Don Juan, surnamed Sy-Quia y Encarnacion, after having examined the documents which bear relation to the said estate, we proceed- to perform the operations of inventorying, distributing and adjudicating the said property, rights and shares which constitutes the same, first setting down the following suppositions in order to clarify the said proceedings and form the base thereof. First supposition: Regarding the death of Don Vicente Romero Sy Quia intestate and the declaration of the heirs of the same.

On the ninth of January, one thousand, eight hundred and ninety-four, in the suburb of Binondo of this Capital, Don Vicente Romero Sy Quia, died without having manifested in any legal form what was his last will, for which reason his widow, Doña Petronila Encarnacion y Singson, and has children Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan, all surnamed Sy Quia y Encarnacion, and his grandson Don Generosos Mendoza y Sy-Quia, son of his daughter Doña Maria Sy-Quia y Encarnacion, and represented by his father Don Eustaquio Mendoza, appeared before the Court of First Instance of the District of Quiapo, on the seventeenth of January, one thousand eight hundred and ninety-four, soliciting the corresponding declaration of heirs of the estate of the father, husband and grandfather of the same, the said Don Vicente Romero Sy Quia; and the Court, after the proper legal formalities, declared, by order dated the twenty-sixth of the said month of January, one thousand, eight hundred and ninety-four, the deceased Don Vicente Romero Sy Quia intestate, and his children Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and his grandson Don Generoso Mendoza, as the son of the deceased Doña Maria Sy-Quia, late wife of Don Eustaquio Mendoza, as the heirs, without prejudice to a third party, with better rights, as appears from the copy of said order which will be attached at the end of these proceedings. The death of Don Vicente Romero Sy Quia, being then intestate, the distribution and adjudication of the property by him will be subjected to the dispositions

which regulate intestate successions. Second supposition: As to the persons interested in the estate left by the said deceased Don Vicente Romero Sy Quia, and as to the form of performing extra judicially these proceedings.

77 The persons interested in the present proceedings of distribution are those who, in the preceding supposition were said to have been declared heirs of Don Vicente Romero Sy Quia as well as the widow Doña Petronila Encarnacion y Singson, of the community property which corresponds to her and of her legal usufruct as stated in the sixth supposition, Don Eustaquio Mendoza also being found to be interested by virtue of the usufruct which the law gives him of the property of his minor son Don Generoso Mendoza y Sy Quia. All the said interested parties, in exercise of the right which the law confers upon them, determined to perform these operations extrajudicially, charging the technical direction thereof to the subscribing lawyers as was stated in the beginning; but in view of the fact that Don Generoso Mendoza is not yet of legal age, notwithstanding the fact that he has been emancipated by reason of his marriage, and his interest in these proceedings being found with those of his father Don Eustaquio, the said Don Generoso appeared before the Court of First Instance of Tondo, praying in an probate proceeding, the appointment of a guardian in accordance with article one hundred and sixty-five of the Civil Code, which fell to Attorney Don Felipe Calderon, because his grandmother, Doña Petronila Encarnacion, to whom the guardianship would ordinarily correspond, could not be appointed because she too is interested in these proceedings. The statements relating to the appointment of a guardian for Don Generoso Mendozay Sy Quia, which was in favor of Don Felipe Gonzalez Calderon, appears from the certificate issued by the Probate Clerk of the aforesaid Court of First Instance of Tondo, Don Lucio Ignacio, under this date, which certificate will be attached at the end of these proceedings, with other documents, and in which under date of the thirtieth of July appears by notation that the guardian appointed  
78 accepted the trust and took the oath. Inasmuch as a minor, appears in these proceedings, who is not represented by his father, the said proceedings when completed will be submitted for judicial approval in accordance with the provisions of article one thousand and sixty of the Code. Third supposition: As to the inventorying and a valuation of the property, rights and shares left by Don Vicente Romero Sy Quia at his death.

Upon the death of Don Vicente Romero Sy Quia, his heirs by mutual agreement privately and extrajudicially prepared under date of the twentieth of January, one thousand eight hundred and ninety-four, an inventory of the property, rights and shares, fixing the value of the real property in the amount paid for the same at the time of acquisition, and the others in accordance with notes and entries which appear in the books privately kept by the deceased, or in the amounts arrived at by mutual agreement. Said inventory was prepared in such a manner that it shows a result of three hundred and twelve thousand, eight hundred and seventeen pesos and ninety-six

cents as the total value of the inventoried property.—After the death of the said Don Vicente Romero Sy-Quia, his widow Doña Petronila Encarnacion, authorized by all the heirs by a power executed in this Capital in a document formulated before the Notary Don Numeriano Adriano on the twenty-seventh of January, one thousand eight hundred and ninety-four, numbered forty-one in order, the first copy of which will be attached at the end of these proceedings, continued administering all the property, and with the profits thereof acquired others, augmenting in this manner those first inventoried. In forming, then, the inventory which is to serve as the base of the present proceedings of distribution it will include all the property, rights and shares left by Don Vicente Romero Sy-Quia at his death and those acquired afterwards, without specifying which is which in order to avoid confusion inasmuch as the former appear in the inventory signed by all the interested parties.—The

79 avaluation of what is inventoried here will be adjusted as near as possible on the base agreed upon by the interested parties upon making the first inventory. But in regard to the real property, in view of the fact that it has greatly increased in value at the present time it was agreed by all the interested parties that the said property is to be valued in relation to the annual rental which it now produces, to be computed for this purpose at the rate of twelve per cent of the capital invested.—This avaluation will be applied not only to the real property acquired after the death of Don Vicente Romero Sy-Quia, but also to that acquired prior thereto; and in order to determine what is the additional price which is to be considered here, those acquired during the lifetime of the said Mr. Sy-Quia, upon being inventoried here will show the price at which they were respectively acquired, the base upon which their avaluation was made in the first inventory, as above stated. Four supposition'—as to the nature of the property inventoried. It does not appear from any source that the spouses, Don Vicente Romero Sy-Quia and Doña Petronila Encarnacion, upon marrying brought anything to the conjugal partnership and only that Doña Petronila Encarnacion during the life of her deceased husband, Don Vicente Sy-Quia, inherited from her deceased mother, Doña Ruperta Singson, the sum of five thousand pesos in cash. In accordance with articles one thousand three hundred and ninety-six, number two, and one thousand three hundred and seven of the Civil Code, the property which is to be inventoried here will be considered as community property with the exception of the five thousand pesos acquired by right of inheritance by Doña Petronila Encarnacion which is the private property of the same. Fifth

80 supposition. As to the reductions from the general amount of property and as to the liquidation of the community property.

In remuneration of the work performed by Doña Petronila Encarnacion in the administration of the property left by Don Vicente Romero Sy Quia at his death and which resulted profitably, it was agreed by all the interested parties to recompense her with six per cent of the profits of said property since the death of Mr. Sy Quia to the present date. These expenses of administration will be deducted from the

total amount of property, from which will also have to be deducted the five thousand pesos which Doña Petronila Encarnacion inherited from her deceased mother; and the balance will be divided among the two spouses in equal parts in accordance with the provisions of article one thousand three hundred and ninety-two of the Civil Code. Sixth supposition. As to the right of usufruct by the widow Doña Petronila Encarnacion and the manner of satisfying the same. Upon the death of Don Vicente Romero Sy Quia the Civil Code was already in force and having left several legitimate children living, the widow Doña Petronila, in accordance with article eight hundred and thirty-four of said Code has a usufruct-ory right to one part of the property left by her deceased husband, equal to that which legally corresponds to each one of his children. There being a doubt existing among the juriconsults and commentators of the Code as to the usufructuary portion of the surviving spouse from the estate of the deceased spouse, some sustaining that this portion is to be taken from the whole estate, others that it is to be taken from two-thirds of the same, which is that which constitutes the legitima larga, and others that said portion must be determined by the result of the division between the legal descendants of the third of the estate which is that which constitutes the legitima corta, it was agreed by all the interested

81 parties to follow in this proceeding the most limited criterion, or the one which sustains that the surviving spouse has a usufruct-ory right to a portion equal to that which by the legitima corta corresponds to each one of the children, because there is a minor interested here and this being the most beneficial to the same. In accordance with that set forth, the third part of the estate left by Don Vicente Romero Sy-Quia, which is one hundred and one thousand, seven hundred and forty-one pesos and eighty-eight and six-eighths centimos, will be divided into five portions, because there are five legal descendants of the same, and one of these portions will be equivalent to the portion which in usufruct corresponds to the widow Doña Petronila Encarnacion. And in order to avoid the division of rights in the same property which might lead to conflicts and collisions, all the interested parties by mutual accord, and in accordance with the provisions of article eight hundred and thirty-eight, agreed to adjudicate to the widow in fee simple property equivalent to the half of the portion which, according to this supposition, corresponds to her in usufruct. In accordance with the above the portion which corresponds to Doña Petronila Encarnacion as her usufruct-ory portion will be one thirtieth part of the net amount of the estate left by Don Vicente Romero Sy-Quia.—Seventh Supposition. As to the liquidation and division of the inheritable estate. The half of the community property after making the deductions mentioned in the fifth supposition constitutes the amount of this estate, and from said amount will be deducted the sum which in accordance with the preceding supposition is adjudicated to the widow as her usufruct-ory right, and the balance will be distributed, according to articles nine hundred and thirty-two, and nine hundred and thirty-three of the Code, in equal parts between the five declared heirs of the deceased

82 Mr. Sy-Quia. Eighth supposition. As to the death intestate of Doña Apolinaria Sy-Quia y Encarnacion and as to the declaration of the heiress of the same.

On the first day of May of the present year, Doña Apolinaria Sy Quia y Encarnacion died in the suburb of Binondo of this Capital, single and consequently without having left any descendant, nor executing testamentary disposition, therefore her mother solicited and obtained from the Court of First Instance of the District of Quiapo the declaration of heiress intestate of her said daughter by order dated the ninth of July last, and for this reason the portion of the estate left by Don Vicente Sy-Quia corresponding to his deceased daughter, Doña Apolinaria, will be adjudicated in accordance with the second part of article nine hundred and thirty-six of the Code.

Ninth supposition: As to the usufructory right of Don Eustaquio Mendoza of the property of his son Don Generoso, and as to the determination of the portion which corresponds to him in that conception. Article one hundred and sixty- of the Code grants to the father or the mother who has in his or her charge and company a child not emancipated from their custody a usufruct of the property which this child acquires by whatever lucrative title. In this respect that produced since the death of Don Vicente Sy-Quia by the portion of the estate which belonged to the heir Don Generoso Mendoza corresponds and should be adjudicated to his father Don Eustaquio. To find in these operations that which belongs to Don Eustaquio Mendoza as his usufructory right, the difference between the total value of that which is here inventoried and that which was inventoried at the time of the death of Don Vicente Sy-Quia will be ascertained, adding to this second amount the increased price of the real property, as was stated in the third supposition. From the result first deducting the expenses of administration, then the half of the balance which is the profits made by the part of the community property of the widow and last one thirtieth part of the other half, which is the profit made by the usufructory

83 portion which belongs to the said widow Doña Petronila Encarnacion. The final balance which will be the profits made by the property which corresponds to the five heirs will be divided into five portions, one belonging to Don Eustaquio Mendoza. And in payment of this credit the various amounts which he has taken for himself will be adjudicated to him, and which must be applied to this payment, according to the notarial minute formulated before the Notary Don Jose Maria Rosado y Calvo, the seventh day of last month, the first cost of which will be attached to the end with the other documents as well as the expense of maintenance, education and recreation of Don Generoso, all expense which must indisputably be charged against the income of the capital of the minor.—Under these supposition- the proceedings of distribution will be proceeded with, commencing with that of

*Inventory and Avaluation.**Cash.*

First. In notes of the Spanish-Filipino Bank nine hundred and five pesos...	P905
Second. In American notes, at the current rate of exchange in the market two hundred and twenty-four pesos...	224.
Third. In American silver at the current rate of exchange, one hundred and thirty-seven pesos and eighty centimos.	137.80
Fourth. In Philippine silver money, three hundred and twenty-four pesos and ninety centimos.	324.90
Fifth. In current account in the Chartered Bank of India, Australia and China, in the name of Doña 84 Petronila Encarnacion, ninety-four thousand five hundred and forty-two pesos and seventy-four centimose	94,542.74
Sixth. Amounts brought to collation by Don Pedro Sy Quia.	
(a) Amount which he took in advance to purchase the house on Paseo de Azcar raga, twelve thousand pesos...	P12,000.
(b) Four thousand pesos which he took to buy the house in Ermita.	4,000
(c) Nineteen thousand, nine hundred and fifty-four pesos and sixty-three centimos which he took to invest as capital in a pawn shop.	19,954.63
	35,954.63
Seventh. Nineteen thousand nine hundred and fifty-four pesos and sixty-three centimos brought to collation by Don Juan Sy-Quia, which amount he took to invest as capital in a pawn shop.	19,854.63
Eighth. Two thousand six hundred and seventy pesos facilitated Don Generoso Mendoza, cash taken on different occasions	2,670
	(154,713.70)



Ninth. Amounts brought to collation by Don Eustaquio Mendoza.

(a) Fifteen thousand nine hundred and fifty-seven pesos, total amount of various sums taken on different occasions and recognized in a writing formulated in this Capital before the Notary Don José Maria Rosado y Calvo the seventh of last July, with the number four hundred and sixty-two in order.....	15,957	
(b) Seven hundred and ten pesos and forty centimos paid to various persons on debts contracted by Don Generoso Mendoza	710.40	
(c) Seventeen pesos paid to Señor Bruno for an account against the said Don Generoso.....	17.	
(d) Eighty-five pesos paid as the price of a gold pin with diamonds purchased by the said Don Generoso....	85.	
(e) Twenty-two pesos the value of various jewelry sold, and which remained in the possession of Don Generoso Mendoza.....	22.	
(f) One thousand four hundred and eighty-five pesos paid to the Messrs. Levy Hermanos as the price of jewelry purchased by the said Don Generoso. ....	1,485.	
(g) One hundred and forty pesos paid to Doña Paz Longos for a wedding dress ordered by Don Generoso....	140.	
(h) One thousand nine hundred and thirty pesos paid to the Colleges of San Juan de Letran and the Ateneo Municipal for the board of the said Don Generoso.....	1,930.	
		20,346.40
Amount in cash.....		175,060.10

*Jewelry.*

Tenth. Twenty dozen pinchbeck earrings of the first class at eight pesos a dozen: Thirty six pair of earrings at six pesos a dozen: Ten dozen and a half of pinchbeck earrings of the third class at five pesos a dozen: Three dozen pinchbeck reliquaries at ten pesos a dozen; Eleven reliquaries of various sizes at fifty centimos each: Twenty pairs of earrings at fifty centimos per pair:



Nine pairs of earrings (*criollas*) at twenty-five centimos: Twelve combs of various forms and sizes ten pesos; One set of Pearls silver gold plated ten pesos: Four combs silver gold plated thirteen pesos: Seven needles with pearls at one peso and fifty centimos each: One rosary, coral and silver gold plated one peso: and all these sums amount together to three hundred and thirty-eight pesos and twenty-five centimos.....

325.25

*Furniture.*

Eleventh. All the furniture existing in the house number two hundred and seventy-five on Calle Jolo of the suburb of Binondo which are valued at one thousand pesos.....

1,000.

*Real Estate.*

Twelfth. An urban property consisting of a house of strong material and the lot on which it is built, recently designated by the number three and now by the number two hundred and seventy-five and situated on Calle de Jolo of the suburb and judicial section of Binondo and North demarcation of the Registry of property.

- 87 Bound on the right, entering, by the house and lot of Don José Soriano, on the left by another house and lot of the said Don Jose Soriano, and at the back by the estero of Binondo. The described lot measures twenty-five meters and fifty-five centimeters in front, thirty-three meters and sixty-eight centimeters on each of its sides right and left, and twenty-four meters and sixty centimeters at the back, or a superficial area of eight hundred and forty-six and thirty-seven hundredth square meters.

This property was acquired by the deceased Don Vicente Romero Sy-Quia by deed of purchase in public sale for the price of eight thousand seven hundred and nine pesos and forty centimos which was paid, said sale being ordered by the Court of First Instance of the District of Binondo in the orders of execution instituted by the Señores B. A. Barretto y Compania, against the spouses Don Miguel Calleja and Doña Juana Agustina Paterno, as appears from the document of judicial sale executed the seventh of October, one thousand eight hundred and eighty-four by Don Francisco Vila who was Judge of the Court of First Instance of said district, before the Notary Don Enrique Barrera y Caldes. And the old house built on the described

lot was demolished by said Señor Sy-Quia, constructing the one which is actually standing, and in which work seventeen thousand, two hundred and ninety-one pesos were spent.

The right of dominion of the deceased Don Vicente Romero Sy-Quia over the described property is

found inscribed in the Registry of Property  
88 of the North District of this Capital on page twenty-nine of the third volume of the archives, Second provisional book of the Ayuntamiento, Manila, Binondo section, property number four hundred and forty-four Notation letter "A." This property is not encumbered in any way and is valued at thirty-five thousand pesos. . . . .

35,000

Thirteenth. Urban property, consisting of a house of strong material and the lot on which it is built, situated on Calle Anloague of the District of Binondo judicial section of Manila and North demarcation of the Registry of Property of this Capital, and designated until recently by the number sixteen, and now by the number one hundred and eighteen. This property is bounded on the right of its entrance by the house and lot of Don Lorenzo Alberto, formerly owned by Doña Isabel Alberto, on the left by the house and lot of Don Carlos Palanca formerly belonging to Doña Ana Mauricio, and on the back part by the house and lot of Don Mariano Limjap which was formerly owned by the Chinaman Antonio Tong.

This property was acquired by Don Vicente Romero Sy-Quia, by deed of purchase from Don Eulogio Revilla and the daughter of the same Doña Escolastica, in the sum of nine thousand five hundred pesos, formulating the corresponding document before the public Notary Don Felix Dujua the nineteenth of July, one thousand eight hundred and eighty-one, numbered in order, three hundred and seventy. The property is free from all charge, encumbrance and responsibility and is valued at eleven thousand pesos. . . . .

11,000

Fourteenth. Urban property, consisting of a house of strong material and the lot on which it is built, situated on Calle Anloague of the suburb of

89 Binondo, Judicial section of Manila, of the North demarcation of the Registry of Property of this Capital. This property was until recently designated by the number nineteen of the government police and now by the number one hundred and nineteen, having a superficial measurement of four hundred and thirty-eight and nine hundredths square meters, and bounded on the

right of its entrance by the house and lot of Señor Paterno, formerly that of Doña Matea Agustín Paterno, on the left by the house and lot which belonged to the Chuidian Brothers and now adjudicated to Don Telesforo Chuidian, and at the back by the house and lot of Señor Rojas.

The lot was acquired by the deceased Don Vicente Romero Sy-Quia for the price of thirteen thousand five hundred pesos in public judicial sale at the instance of the brothers Don Félix María Doña Modesta, Don Isidro, Don Evaristo, Don Félix, Don Benigno, Doña Bernardina, Don Perfecto, Doña Vicenta, Doña Gracia and Doña Concepción, all surnamed Moreno y Guzmán, formulated in a probate proceeding had in the Court of the District of Quiapo, as it appears in the first copy of the document of sale executed by the Judge of First Instance of the District of Quiapo, Don Antonio Pizarro Iñiguez, before the public Notary Don Numeriano Adriano, the first of August one thousand eight hundred and eighty-nine, numbered in order two hundred and fifty-three.

And the house built on this lot was constructed by the deceased Don Vicente Romero Sy-Quia.

The Described property is free from all charge encumbrance and responsibility and is valued

90 at seventeen thousand pesos..... 17,000

Fifteenth. Urban property, consisting of a lot on which there are constructed five houses of strong material with galvanized iron roofs, and three warehouses with tiled roofs, situated in the Plaza de Calderon de la Barca, in the suburb of Binondo of this Capital, bounded on the right, entering, by the river of the said suburb, on the left by the Calle de Jolo, and at the back by the house of Don Miguel Fabie, measuring three thousand two hundred and seventy and twelve hundredths square meters. The said lot, divided into five parts, though at present forming only one, was acquired from the State by purchase made by the spouses Señor Vicente Romero Sy-Quia and Señora Petronila Encarnación, as appears from the documents executed before the Notary Don Miguel Torres, the tenth of September, one thousand, eight hundred and eighty-four with the number in order one hundred and forty-four of Señor Francisco Arias Santisteban, Administrador central de renta in representation of the State, and from the attested copy of the record of registration of the perpetuation of the summary information proceedings.

This property is free from all charge, encumbrance and responsibility, and even if in the acquisition of the described lot and the construction of the houses and warehouses built on said lot the sum of fifty-eight thousand pesos, was expended, in accordance with the third supposition it will be valued at seventy-nine thousand pesos.....

79,000

Sixteenth. Urban property, consisting of a house of strong material with the lot on which it is built, situated on Calle San Jacinto of the suburb of Binondo, judicial section of Manila and  
91 North demarcation of the Registry of Property, and until recently designated by the number thirty-eight of the government police, and now by the number one hundred and seventy-six. Bounded on the right of its entrance by the house and lot of the widow of Don Cayetano Valenzuela, on the left by another property of this estate, which is inventoried under number eighteen, and at the back by the estero of San Jacinto.

This property was acquired by the deceased Don Vicente Romero Sy Quia with the sum of ten thousand pesos by deed of purchase in a public judicial sale at the instance of Don Matias Basa as agent of Don José Maria Basa, and first guardian of the incapacitated Doña Asastasia Basa y Quesada and ad litem of the minor Don Joaquin Basa y Quesada, Dona Basa y Quesada in her own right, and Don José Martinez Rivas as agent of Doña Paula Basa y Quesada de Collada, pretentions formulated in the record of the probate proceedings had in the Court of First Instance of the District of Binondo, as all appears in the first copy of the document of of sale executed by the Judge of First Instance of said District, Don Vicente Gonzalez Azaola before the Public Notary Don Manuel Blanco y Mendieta, the first of May, one thousand eight hundred and eighty-nine with the number in order eighty-eight.

This property is free from all charge, encumbrance and responsibility and is valued at twelve thousand five hundred pesos.....

12,500

Seventeenth. Urban property consisting of a house of strong material and the lot on which the same is built, situated on Calle de San Jacinto, suburb and judicial section of Binondo, North demarca-  
92 tion of this Capital designated until recently by the number forty-seven and now by the number one hundred and ninety-three, bounded on the right, entering, by the house and lot of Don Manuel Benigno Reyes; on the left by the house and lot of the heirs of Don Manuel Perez; and at the

back by the house and lot which faces on Calle Nueva and formerly belonged to the deceased Don Ariston Estrada. The lot measures eleven and eighty-five hundredths meters in front, eight meters and ten centimeters on the right side, sixteen meters and forty-seven centimeters on the left, and at the back, which is a broken line composed of seven lines measuring from right to left: the first five meters, the second two meters and seventeen centimeters; the third three meters and ten centimeters; the fourth five meters and twenty centimeters, the fifth two meters and thirty centimeters, the sixth two meters and twelve centimeters and the seventh one meter and fifty centimeters; all of which measurements give a superficial total of one hundred and thirty-five and twenty hundredths square meters.

The house and lot described were acquired by the spouses Don Vicente Romero Sy-Quia and Doña Petronila Encarnacion by purchase in public sale for the sum of three thousand, one hundred and ninety-three pesos and ten centimos, as appears from the document formulated before the Notary Don Numeriano Adriano the eleventh of November, one thousand eight hundred and ninety-two numbered in order four hundred and thirty-eight, the first copy of which appears inscribed in the Registry of Property of the North District of this Capital on page two hundred and eleven of the third volume of the archives, sixth book of 93 the Ayuntamiento of Manila, Section of Binondo, property number two hundred and twenty-two, notation letter B.

The property is free from all charge, encumbrance and responsibility and is valued at four thousand six hundred pesos.....

4,600

Eighteenth. Urban property, consisting of a house of strong material with galvanized iron roof, and the lot on which the same is built, situated on Calle de San Jacinto, district of Binondo in this Capital; and North demarcation of the Registry of Property, designated until recently by the number forty, and at the present time by one hundred and eighty-four, bounded on the right entering, by what was an alley "Quiñones," now closed, on the left by the house and lot of Don Ramon Mortera and at the back by the estero de San Jacinto. The lot referred to measures four hundred and thirteen and thirty-five hundredths square meters in area and was acquired by purchase in public sale by Don Vicente Romero Sy-Quia for the sum of six thousand and five pesos with the two houses raised

on the said lot as appears in the public document executed by Don Vicente Gonzalez Azaola, as Judge of First Instance of the District of Binondo before the public Clerk Don Manuel Blanco y Mendieta, the first of May one thousand eight hundred and eighty-nine, numbered in regular order eighty-nine. The two houses referred to were destroyed in order to construct at the expense of Don Vicente Romero Sy-Quia that which is now on the described lot. The property is free from all charge, encumbrance and responsibility and is valued at twelve thousand pesos.....

12,000

Nineteenth. Urban property consisting of a house of strong material and the lot on which the

94 same is built, situated on Calle Jaboneros of the suburb of Binondo, judicial district of

Manila and North demarcation of the registry of Property, and designated until recently by the government police number five, and at present by the numbers two hundred and six and two hundred and eight? Bounded on the right of its entrance by the house of Doña Marcela Ferrer, now that of the Chinaman Sy Lioc Suy, on the left by that of Doña Petrona Jovita, now that of the heirs of Don Isabelo Pantanco, and at the back by the house and lot of the sisters Doña Laureana and Doña Isidra Sisec. The described lot was acquired by Doña Petronila Encarnacion by purchase made of the brothers and sisters Doña Maria Rosenda, Doña Apolonia, Doña Josefa Gibriela, Don Andres, Doña Ciriaca, Doña Concepcion and Don Tomas, all surnamed Tuason, as appears from the document formulated before the Notary Public Don Felix Dujua the sixth of November, one thousand eight hundred and seventy-six; and the house built on said lot was constructed by the said Doña Petronila and her deceased husband Don Vicente Romero Sy-Quia, having invested in the construction of this house and in the acquisition of the lot the sum of four thousand pesos. The property is found free from all charge, encumbrance and responsibility and is valued at five thousand pesos.....

5,000

Twentieth. Two urban properties consisting of nine accessories of strong material and the lot on which they are built, situated on Calles San Jacinto and Nueva of the district of Binondo, judicial district of Manila and North demarcation of the Registry of Property, and designated until recently by the number forty-three on Calle San Jacinto and by number forty on Calle Nueva and at the pres-



ent time by the numbers one hundred and seventy-nine, one hundred and eighty-one and three, and one hundred and eighty-five on the first of said Calle and by the number one hundred and forty-four on the second one. These properties were acquired by the deceased Don Vicente Romero Sy Quia for the sum of thirteen thousand three hundred and five pesos by deed of purchase in judicial public sale celebrated at the instance of Don Jose Maria Bas y Quenda, Don Ana Maria Bas y Quenda, Don Clara Bas y Quenda and Don Paula Bas y Quenda de Collada formulated in a probate proceeding had in the Court of First Instance of Binondo. And in the document of sale of this property formulated by the Judge Don Vicente Gonzalez Asola before the public clerk Don Manuel Blanco y Mandieta the first of May one thousand eight hundred and eighty-nine numbered in order ninety and the property is described as follows:

Two buildings of masonry work, composed, one of four accessories, and the second of five, situated, the first on Calle San Jacinto, designated by the numbers sixty-three to sixty-nine, old style and forty-three modern system; and the second on Calle Nueva designated by the numbers forty to forty-eight old style and forty modern system, both streets in the suburb of Binondo of this City, with their respective lots which forms one parcel and appears in the plan and designated by the number three which appears in page thirty-one of the proceedings regarding the same; the property on Calle San Jacinto is bounded at the present time with the said street between by the houses numbered sixty-six and sixty-eight old style and thirty-eight modern, belonging to the purchaser here, on

96. the right of the entrance by callejon de Quinones in between, the property of Don Manuel Perez; on the left by that of the heirs of Don Mariano Roxas; and at the back by the property which faces Calle Nueva; this being bounded in front, the said Calle Nueva being between, by the house of Don Severino Alberto; on the left of its entrance, callejon de Quinones in between, by the house number forty; on the right by the property of the heirs of the said Mariano Roxas; and at the back by the property already described.

Both properties occupy a superficial area of five hundred and seventy-five and seventy-five hundredths square meters which is divided in the following



manner: The house on Calle Nueva occupies an extension of two hundred and seventy-five hundredths square meters, one hundred and two and four hundredths square meters by that on Calle San Jacinto, and two hundred and twelve and four hundredths square meters by the yards and dependences of the two houses.

These properties are free from all charge, encumbrance and responsibility and are valued at eighteen thousand three hundred pesos.

18,300

Twenty-first. Urban property consisting of a house of strong material and the lot on which it is built, situated on Calle Jaboneros of the barrio of San Nicholas suburb of Binondo, judicial District of Manila and North demarcation of the Registry of Property and designated until recently by the number fifty-four and at present by the number thirty-one. Bounded on the right of its entrance by the property of the heirs of Don Jose Zaragoza, formerly by the vacant lot of Don Guillermo Osmesia; on the left by the Calle de Sevilla; and on the back by the lots of Margarita Irene, Candido Tancungen and Clara Maganti. This property was ac-

97 quired by the deceased Don Vicente Romero

Sy-Quia and his wife Doña Petronila Encarnacion for the sum of fifteen thousand pesos by purchase made from Don Juan Roxas, as appears from the document formulated before the Notary Don Francisco Hernandez y Fajarnas, the nineteenth of April, one thousand eight hundred and ninety-six, with the number two hundred and ninety-six. Said property is free from all charge, encumbrance and responsibility and is valued at fifteen thousand pesos.

15,000

Twenty-second. Urban property consisting of a house and three accessories of strong material and the lot on which the same are built, situated on Calle Jaboneros of the District and judicial section of Binondo of this Capital, and North demarcation of the Registry of Property, and designated until recently by the numbers ten and twelve and at present by the numbers one hundred and seventy-five, one hundred and seventy-seven and one hundred and seventy-nine and one hundred and eighty-one. Bounded on the right of its entrance by the house of Don Alfonso Chuqui, on the left by the house of Doña Dolores Sanchez, and at the back by the yard of the house of Doña Leoncia Conehu.

This property was acquired by deed of purchase from Doña Melchora y Doña Magdalena Señoran by Don Vicente R. Sy-Quia and Doña Petronila Encarna-

cion for the sum of eight thousand, seven hundred pesos, as appears from the document formulated before the Notary Don Ramon Tagueiro Gonzalez, the twenty-first of March, one thousand eight hundred

and ninety-two, with the regular number  
98 sixty-nine, the first copy of which appears inscribed in the Registry of property of the

North District of this Capital on page thirty-four of the Third volume of the archives, Fifth book of the Ayuntamiento of Manila, Binondo section, property number one hundred and ninety-four, notation letter A. This property is free from all charge, encumbrance and responsibility and is valued at nine thousand five hundred pesos. . . . .

9,500

Twenty-third. Urban property consisting of a house of strong material and the lot on which the same is built, designated formerly by the number ten and at present by the number forty-six, situated on Calle de Barraca of the District of Binondo in this Capital and the North demarcation of the Registry of Property. Bounded on the right by the house and lot of Don Manuel Gonzalez Castro, on the left entering, by the house and lot of Don Alberto Schevenger, and at the back by the estero of Binondo. The said lot measures forty-four meters and thirty centimeters frontage, forty-six meters and fifty-five centimeters on each side, right and left, and thirty-eight meters and five centimeters at the back, or a superficial area of one thousand nine hundred and fifty-eight and ten hundredths square meters, and was acquired by purchase from the estate of Don Francisco Reyes by Don Vicente Romero Sy-Quia, for the sum of eighteen thousand pesos as appears from the document executed before the public Clerk Don Manuel Blanco y Mendieta, the thirteenth of December, one thousand eight hundred and seventy-nine, numbered one hundred and seventy-two in order, the deed of the deceased

Don Vicente Romero Sy-Quia to the said  
99 property being inscribed in the Registry of Property of the North District of this Capital on the reverse side of page twenty-eight of the third volume of the archives, Second provisional book of the Ayuntamiento of Manila, Binondo Section, property number four hundred and forty-three, notation letter A. This property is free from all charge, encumbrance and responsibility and is valued at thirty-five thousand pesos. . . . .

35,000

Twenty-fourth. Urban property consisting of a warehouse and two accessories with two doors, and the lot on which the same are built, designated formerly by

the number eleven, and now by the numbers one hundred and eighty-six, one hundred and eighty-eight, and one hundred and ninety, and situated on Calle Jaboneros, District and judicial section of Binondo, in this Capital, North demarcation of the Registry of Property, bounded on the right entering, by the house of Doña Leoncia Conehu, on the left by the house of Don Juan Adriano, and at the back by the house of one Maria, having a superficial area of one hundred and seventy-eight and thirty-three hundredths square meters.

This property was acquired in judicial sale for the sum of one thousand four hundred and forty four pesos, by Señor Vicente Romero Sy-Quia, as appears from the document formulated by Don Jorge Morlan, Judge of First Instance of the District of Intramuros before the public Clerk Numeriano Adriano, the eighteenth day of September, one thousand eight hundred and eighty, numbered one hundred and ninety-eight in order. It is free from all charge, encumbrance and responsibility and is valued at three thousand pesos.

3,000

Twenty-fifth. Urban property consisting of a house and the lot on which it is built, situated on Calle Cabildo, Intramuros of this Capital, designated until recently by the number fifty-seven, and at present by the number three hundred and twenty-two, without naming block or section, and bounded on the left entering, by that of Don Jose Gray, on the right by the Calle Victoria, and at the back by the house of Don Antonio Lapuente. Measures fourteen meters and forty-five centimeters front, by thirty-six meters and seventy-one centimeters deep or a superficial area of five hundred and thirty and forty-six hundredths square meters, or approximately.

This property was acquired by deed of purchase made of Don Mateo Gravalos y Molinero by Doña Petronila Encarnacion y Singson, as appears from the document formulated before the Notary Don Enrique Barrera y Caldez, the sixteenth of October one thousand eight hundred and ninety-nine, numbered one thousand and forty-seven in order, the first copy of which appears inscribed on page two hundred and twenty-two of the first volume of the South Registry, First book of the Ayuntamiento of Manila, Intramuros section, property number thirty-five inscription number two. It is free from all charge, encumbrance and responsibility and is valued at thirteen thousand five hundred pesos....

13,500

Twenty-sixth. Two properties which are: A. Urban property consisting of a house of masonry work and the lot on which it is built, situated on Calle

101 Cabildo, Intramuros of this City, judicial district of the same and South demarcation of the Registry of Property, formerly designated by the number sixteen and at present by the government police number two hundred and nine. Bounded on the right entering by the property which will be described in paragraph next after this, formerly designated by the number fourteen and at present by the number two hundred and three, on the left by that of the heirs of Don Casimiro de Cortazar, and at the back by the property facing Calle Palacio belonging to the Cabildo Eclesiastico, which has its front on the plaza de Santa Isabel. It occupies a superficial area of four hundred and sixty-one square meters, and twenty-seven centimeters, also squares. And is valued at five thousand five hundred pesos.....

5,500

B. Urban property consisting of a house of masonry work with its lot, situated also on the said street, Cabildo, designated formerly by the number fourteen, and at present by the government police number two hundred and three. Bounded on the right entering by the property of the minor children of Don José Sanchez Anton; on the left by the property described in the preceding paragraph, and at the back by that which faces on Calle Palacio belonging to the Cabildo Eclesiastico, and by another property belonging also to the said Cabildo Eclesiastico, which faces on the Plaza de Santa Isabel. It occupies a superficial area of five hundred and three and twenty-hundredths square meters. And is valued at five thousand five hundred pesos.....

5,500

The two properties described were acquired by Doña Petronila Encarnacion by deed of purchase

102 from Doña Maria Dolores Marzana y Piug, as appears from the document formulated before the Notary Don Enrique Barrera y Caldes, the

eleventh of August, one thousand eight hundred and ninety-six, numbered six hundred and thirty in order, and the right of ownership by Doña Petronila Encarnacion of the two described properties being inscribed in the Southern Registry of this Capital on pages eighty-six and ninety of the first volume of the archive-, fifth volume of the Ayuntamiento of Manila, Intramuros section, properties numbered one hundred and eighty-six and one hundred and eighty-seven, first inscriptions.

Twenty-seventh. Urban property consisting of a house made of stone and lime with iron roof, and the lot on which it is built, formerly designated by the number twenty-one, and at present by the number one hundred and fifty-six, situated on Calle Solana, Intramuros of this City. Bounded on the right of its entrance by the property of Doña Pelagia V. Velasquez, widow of Roman, on the left by that of Don Jose Grey y Ramos, and at the back by that of Doña Josefa Ramos. It measures twenty-three varas in front by forty-two varas in depth equivalent to six hundred and seventy-four square meters.

This property was acquired by Doña Petronila Encarnacion by deed of purchase from Doña Cipriana Pilar Francisco, Don Miguel Ligon and Faustino, and Don Lazaro Canon y Faustino, as appears from the document formulated before the Notary Don Calixto Reyes y Cruz, the thirtieth of October, one thousand eight hundred and ninety-nine,

103 numbered eighty-six in order, the first copy of which appears inscribed on page seventy-

three of the First Volume of the Southern Registry of this Capital, Seventh book of the Ayuntamiento of Manila, Section of Intramuros, property numbered two hundred and ninety, second inscription. This property is free from all charge, encumbrance and responsibility and is valued at ten thousand pesos.....

10,000

Twenty-eighth. Urban property consisting of a house with three stories, composed of strong material with stone foundation and galvanized iron roof, divided into seven doors, and the lot on which it is built, situated on Calle Rosario, of the suburb of Binondo, judicial district of Manila and North demarcation of the Registry of Property, and designated until recently by the number one forty-one and at present by the number one hundred and ninety-three. The lot measures twenty-two varas and two thirds, in front, and in depth on the left side of its entrance fifty-six and two thirds varas, and in depth on the right side nineteen varas to the martillo (1) and from the martillo to the back of the right side thirty-seven and two thirds varas, and at the back twenty-seven and three fourth varas, or seven hundred and thirty-two and eight hundred and seventy-five thousandths square meters in superficial area; and bounded on the left of its entrance by the house of Don Vicente Cuyugan; on the right by the houses of Don Martiniano Mariano Veloso and Doña Dolores Ochoa, and at the back by the almacenes de rentas estrancadas del Estado.

The lot and the various old edifices thereon was acquired by deed of purchase from Don Balbino Ventura by Doña Petronila Encarnacion who destroyed the buildings purchased in order to construct the house existing at the present time. And as the title as written, was not registrable Doña Petronila Encarnacion went to the Court of First Instance of the District of Quiapo instituting a proceeding regarding information as to dominion and by order, dated the sixteenth of last May, it was declared that the dominion was established which was inscribed in the Registry of Property of the North District of this Capital on page eighty of the eighteenth volume of the Section of Binondo and sixth of the archive, property number one thousand and thirteen first inscription. It is free from all charge, encumbrance and responsibility and is valued at fifty thousand pesos. .

50,000

Twenty-ninth. Urban property consisting of a lot on which there is constructed a house of strong material, formerly designated by the number fifty-four and at present by the number one hundred and forty-seven and situated on Calle Nueva of the suburb of Ermita of this city, judicial district of Intramuros and Southern demarcation of the Registry of Property. Bounded on the right entering, by a lot whose owner is unknown; on the left by a lot of Doña Benigna Lim Chayco and at the back by the lots of Don Manuel Villaba and Doña Eulalia Macapagal. The whole lot described has an area of nine hundred and sixty and seventy-four hundredths square meters and the part occupied by the house one hundred and eighty-four and fifty-four hundredths square meters.

This property was acquired by Doña Petronila Encarnacion by purchase from Doña Maria Natividad del Rosario, according to a document executed the sixteenth of May, one thousand eight hundred and ninety-four, numbered two hundred and thirty-two in order, the first copy of which appears inscribed on page fifty-seven of the second volume of the archive of the Southern Registry, second Book of the Ayuntamiento, of Manila, Section of Ermita, property number sixty-one, Annotation letter B. This property is free from all charge, encumbrance and responsibility and is valued at four thousand eight hundred pesos. . . . .

4,800

Thirtieth. Urban property consisting of a lot for building purposes, without government police number name of the block or district, situated facing Calle Nueva of the suburb of Ermita of this City,



which measures seventeen meters and seventy-five centimeters in front, by fifteen meters and ninety-five centimeters in depth or an area of two hundred and eighty-one and ten hundredths square meters, having the form of a quadrilateral; and bounded on the right, entering, by the lot of Doña Maria del Rosario; on the left by an alley not named forming a public highway between the Calles Nueva and Real; and at the back by the lot and small house of Don Julio Rivera.

On this lot there is built a small house of mixed material with galvanized iron roof.

This property was acquired by purchase by Doña Petronila Encarnacion from Doña Benigua Sinchongo y de los Angeles, according to the document executed before the Notary Don Numeriano Adriano, the twenty-third of April, one thousand eight hundred and ninety-five, numbered two hundred and eleven in order, the first copy of which appears inscribed on page one hundred and

106 eighty-six of the second volume of the archives of the Southern Registry, first book of the Ayuntamiento of Manila, Section of Ermita, property number thirty inscription four. The house and lot are free from all charge, encumbrance and responsibility and is valued at one thousand pesos

1,000

Thirty-first. Urban property consisting of a house of strong material and the lot on which the same is built, situated on Calle Nueva of the suburb of Ermita, judicial District of Manila and Southern demarcation of the Registry of Property, designated formerly with the number fifty-three and at present by the number one hundred and thirty-six of the government police. The lot measures nine meters in front and eighteen meters in depth or a superficial area of one hundred and sixty-two square meters; and is bounded on the right of its entrance by the house of the Chinaman Mariano Ocampo and on the left and rear by other lots of the Chinaman Don Joaquin Martinez Sy-Tiongday.

This property was acquired by Doña Petronila Encarnacion by deed of purchase made of Don Rafael Alonso y Santana, according to a document formulated before the Notary Don Enrique Barrera y Caldes, the thirty-first of December, one thousand eight hundred and ninety-six, numbered nine hundred and sixty-two in order, the first copy of which appears inscribed on page eighteen of the second Volume of the archive of the Southern Registry, second Book of the Ayuntamiento of Manila, Sec-

tion of Ermita, property number fifty-one inscription number three. It is free from all charge, encumbrance and responsibility and is  
 107 valued at two thousand five hundred pesos. .

2,500

Thirty-second. Urban property consisting of a house of strong material and the lot on which the same is constructed, situated on Calle Nueva of the suburb and judicial district of Binondo, North demarcation of the Registry of Property of this Capital, formerly designated by the government police number forty-four, and at present by the number one hundred and fifty-four. Said property is bounded on the front, said Calle Nueva between, by the property divided into three accessories of Doña Gervacia del Rosario; on the right of its entrance by the house of Doña Clotilde Romrec, on the left by the house of Don Isidro Reyes, and at the back by the house which faces Calle San Jacinto, of the suburb of Binondo and belonging to the interested parties in these proceedings. The lot which is entirely occupied by the house, has the form of an irregular polygon with eight sides, the measurements of which are: in front thirteen meters and twenty centimeters; on the right entering, a line of nine meters and seventy-four centimeters; on the left another line of twelve meters and eighty centimeters; and at the back, a broken line made of five sections, of which the first, counting from right to left is four meters and fifty centimeters; the second one meter and fifty three centimeters; the third three meters and thirty-three centimeters; the fourth one meter and fifty-three centimeters; and the fifth four meters and eighty-seven centimeters, said lot having a superficial area of one hundred and forty-nine and thirty-three hundredths square meters.

This property was acquired by Doña Petronila Encarnacion by purchase from the  
 108 minors, Doña Maria del Rosario, Doña Maria de los Dolores, Doña Maria Teresa and Doña Maria Josefa, surnamed Sanchez y Martinez, all represented by their governess Doña Manuela Llanos y Reyes and Guardian Don Vicente Vega y Santos, these being authorized by the family council, according to the document formulated before the Notary Don Enrique Barrear y Caldes, the ninth of January, one thousand eight hundred and ninety-six, numbered five in order, the first copy of which appears inscribed in the Registry of property of the North District on the reverse of page three of the fourth provisional book of the Section

of Binondo in this Ayuntamiento of Manila, property number six hundred and fifty-six, inscription number two. This property is free from all charge, encumbrance and responsibility and is valued at four thousand pesos.....

4,000

Thirty-third. Urban property consisting of a building lot situated in the interior of Calle Lacoste, barrio of Sibacon of the suburb of Santa Cruz, Judicial District of Manila and North demarcation of the Registry of Property. Bounded on the front by a public alley not named which leads to Calle Lacoste; on the right of its entrance by the property of Don Quintin Villegas; on the left by property of Doña Petronila Perez and at the back by the property of Don Jacinto Lampano. The lot measures two hundred and thirteen and forty-six hundredths square meters in superficial area.

This lot and a house which was erected on it and which was burned in the fire on the night

109 of the twenty-second of February of last year, was acquired by Don Vicente Romero

Sy-Quia and Doña Petronila Encarnacion by purchase from Don Desiderio de los Reyes y Paguio for the sum of three thousand pesos, according to a document formulated before the Notary Don Numeriano Adriano the second of December, one thousand eight hundred and ninety-two, numbered four hundred and seventy in order, the first copy of which appears inscribed in the Registry of Property of the North District of this Capital on page two hundred reversed of the first volume of the archives, second Book of the Ayuntamiento of Manila, Quiapo Section, property number seventy-eight, annotation letter D. The lot is free from all charge, encumbrance and responsibility and is valued at four hundred pesos.....

400

Thirty-fourth. An urban property consisting of a warehouse of masonry work with a galvanized iron roof built on a lot of private property, designated formerly by the number three of the urban police and at present by the number one hundred on Calle Espeleta of the barrio of Sibacon of the suburb of Santa Cruz in this City, Judicial District of Quiapo and north demarcation of the Registry of Property. Bounded on the right entering, by the houses which face on the same street, property of Doña Agustina Medel; on the left by a lot enclosed by a wall formerly owned by Don José Reyes and now by the heirs of Don Benedicto Luna; and at the back by the warehouse and lot which faces Calle Tetuan the property of Don Juan Generoso. The building

occupies the entire lot which measures two hundred and ninety-three and forty six hundredths  
 110 square meters in superficial area.

This property was acquired by Doña Petronila Encarnacion by purchase from Doña Agustina Medel y Marquez, according to a document executed before the Dotary Don Numeriano Adriano the twenty-eighth of January, one thousand eight hundred and ninety-five, numbered fifty-four in order, the first copy of which appears inscribed on page one hundred and two of the first volume of the archive of the North Registry of Property, tenth book of the Ayuntamiento of Manila Quiapo Section, property number five hundred and sixteen, annotation letter D. The property is free from all charge, encumbrance and responsibility and is valued at five thousand pesos.....

5,000

Thirty-fifth. Urban property consisting of a lot without any building nor government police number, situated facing the South on the Gran Divisoria or the calzada de Tutuban now known as the paseo de Azcarraga of the suburb and judicial district of Tondo, Municipality of Manila, North District of the Registry of Property. Bounded on the right entering, to the East by the esterillo called San Lazaro, at the present time part of the said esterillo forming the lots of Don José Gomez and Don Juan Huertas; on the left to the West by the Alley of Sta. Monica, at present an alley without a name which leads to the barrio of Tutuban, and at the back to the North by lands formerly owned by Dr. Don Felipe Zamora and at present owned by Don Yldefonso Tambunting. In the document of acquisition it is said that the lot measures one hundred and five lineal meters; following on the

111 right of its entrance and inclination of one hundred and thirty-five degrees the second side is found which measures seventy-one meters and fifty centimeters; continuing the third side with an inclination of one hundred and one degrees north which measures seventy-four meters; and the fourth side in the same direction eighty-three meters; the fifth side turning to the West one hundred and fifty-three meters; the sixth in direction of the front or South: twenty-six meters, the seventh in direction of the West fifteen meters; the eighth to the South one hundred and eleven meters, forming a polygon of eight sides with an angle of one hundred and ten degrees and has a superficial area of twenty-four thousand and forty-four square meters. But from this parcel there has been ex-appropriated by the Ayuntamiento of Manila a por-

tion of six hundred and thirty-five square meters on the East side, thus reducing the area of the remainder of the described lot to twenty-three thousand eight hundred and nine square meters.

This property was acquired by Doña Petronila Encarnacion by purchase from Don Mariano Marti y Burgos, according to a document executed before the Notary Don Calixto Reyes y Cruz, the eighteenth of September, one thousand eight hundred and ninety-four, numbered four hundred and forty-one in order, the first copy of which appears inscribed in the North Registry of this Capital on page one hundred and eighty-two of the second volume of the archive, first book of the Ayuntamiento of Manila, Tondo Section, property number thirty-one, annotation letter B. This property is free from all charge, encumbrance and responsibility and is valued at eight thousand pesos.

8,000

112 Thirty-six. Urban property consisting of a lot for building purposes surrounded by a stone wall, designated by number twenty-five, situated on Calle Exhague of the suburb and judicial District of Quiapo in this Capital, and North District of the Registry of Property. Bounded on the right entering by the warehouse and lot number twenty-seven of Doña Esperanza Zomosa, on the left by the accessories and lot number twenty-three of Doña Marcelina Cosingco Guidote; and at the back by the warehouse and the lot number six of Doña Vicente S. Reyes, which fronts on Calle Globo de Oro. The described parcel has a superficial area of one thousand seven hundred and twenty-two and two hundred thousandths square meters.

This property was acquired by Doña Petronila Encarnacion by deed of purchase from Don Eugenio Cosingco Guidote y Corpus for the sum of six thousand pesos with the right to redeem within a period of ten years counting from the date of the execution of the document of sale formulated the thirteen of December, one thousand eight hundred and ninety-five, before the Notary Don Numeriano Adriano, numbered six hundred and five in order, the first copy of which appears inscribed in the Registry of Property of the North District of this Capital on page two hundred and thirty-two of the first volume of the archive, eleventh book of the Ayuntamiento of Manila, Quiapo Section, property number six hundred and fourteen, inscription number five. On account of the suspensory condition derived from the *pacto*

113 established this property is valued at the same price of acquisition or six thousand pesos. ....

6,000

Thirty-seventh. Urban property consisting of a house of strong material with galvanized iron roof, and the lot on which the same is erected, situated on Calle Arlegui in the barrio of Tanduary of the suburb and Judicial District of Quiapo of this City, and formerly designated by the number forty-one, which parcel measures seven and one fourth varas in front, equivalent to six meters and eight centimeters, and forty varas in depth equivalent to thirty-three meters and forty-three centimeters, or a superficial area of two hundred and three and twenty-five hundredths square meters; and bounded on the front which faces the South, by the said Calle Arlegui, on the right of its entrance which faces the East by the lot of Doña Narcisa Salvador, on the left which faces the West by that of Doña Andrea Josefa Navarrete and at the back, towards the North, with the estero between, by the lot of Don Manuel Garcia.

This property was acquired by Doña Petronila Encarnacion by deed of purchase from Doña Eugenia de Leon y de la Cruz, in the price of one thousand five hundred pesos and under an agreement to permit redemption within a period of two years counting from the date of the execution of the document of sale formulated the nineteenth of January of the present year, numbered thirty-five in order, before the Notary Don Calixto Reyes y Cruz, the first copy of which appears inscribed in the Registry of Property of the North District of this

Capital on page twenty-six reversed of the 114 twenty-fourth volume of the Quiapo Section and fifty-first of the archive, property number four triplicated, ninth inscription. And by reason of the suspensory condition derived from the *pacto de retro* this property is valued at the same price of adquisition, one thousand five hundred pesos.....

1,500

Thirty-eighth. A. Urban property consisting of a lot and a house made of boards and tin roof, situated facing Calle San Jose of the District of Ermita of this city, designated by the number four of the government police. The superficial area does not appear and it is bounded in front by the said Calle San José; on the right entering, by the lot and houses of Don Julian del Pozo; on the left by the house number six of strong material which will be described next and at the back by the beach.

B. Another urban property consisting of a lot and a house of strong material, situated facing on Calle San Jose already cited, of the district of Ermita



of this City, designated by the government police number six. The superficial area is not given and it is bounded in front by said Calle San Jose; on the right entering by the house and lot number four previously described; on the left by the house of strong material and the lot number eight which will be described next; and at the back by the beach.

- C. Another urban property consisting of a lot and a house of strong material, situated facing the said Calle San Jose of the suburb of Ermita 115 of this Capital and designated by the government police number eight. The superficial

area does not appear and is bounded in front by the said Calle; on the right entering, by the house of strong material and lot number six previously described; on the left by the house of strong material and the lot number ten which will be described later; and at the back by the beach.

- D. Another urban property consisting of a lot and a house of strong material, situated on the said Calle San Jose of the Suburb of Ermita of this Capital. The property is designated by the government police number ten, the superficial area does not appear, and is bounded on the right entering, by the house of strong material and lot number eight previously described; on the left by lots of the spouses Don Agustin Garcia Gavieres and Doña Luisa Peña, and at the back by the beach.

The lot on which the houses already described had a total superficial area of one thousand and seventy square meters.

- E. Another urban property consisting of a lot on which there is a erected a frame house with tin roof, designated by the number twelve, and a cottage also frame with tin roof, without designation by any number of the urban police; the said lot measures four hundred and fifty square varas and three feet also squared, equivalent to three hundred and four and seventy-one hundredths square meters, and bounded on the right entering

116 by the properties described in the paragraphs

A, B, C, and D of the present section, instead of the alley not named which is stated in the deed by mistake, it is bounded on the left by the Calle Cortafuego, and at the back by the Bay of Maila. Its value is five thousand pesos.

The five properties already described were acquired by Doña Petronila Encarnacion by deed of purchase from the spouses Don Agustin Garcia Gavieres and Doña Luisa Peña y del Castillo, at the price of thirty-seven thousand five hundred pesos and

under an agreement to permit redemption within four years, which might be extended four years more, which period began to run from the date of the execution of the document formulated the twenty-seventh of October one thousand eight hundred and ninety-seven, before the Notary Don Agustin Malfaz Illera numbered seven hundred and twenty-one in order, the first copy of which appears inscribed in the Registry of Property of the South District of this Capital on pages one hundred and twenty-one reversed, one hundred and twenty-six reversed, one hundred and thirty-one reversed one hundred and thirty-six reversed of the second volume of the archive, fifth book of the Ayuntamiento of Manila, Ermita Section, properties numbers two hundred and forty-five and two hundred and forty-six and two hundred and forty-seven inscription numbers three and on page thirty one reversed, of the second volume of the archive, second Book of the Ayuntamiento of Manila, Ermita Section, property number fifty-four, inscription number five.

In said document the five properties were described as two, the first those described in parts 117 A, B, C and D which was valued at thirty-two thousand five hundred pesos; the other, that described in part E; and as that described in parts A, B, C and D constitutes four distinct pieces of property they were described in a Notarial minute prepared before the Notary Don Agustin Malfaz Illera the twelfth of November, one thousand eight hundred and ninety-seven, number six hundred and twenty-one in order, in the manner above set forth, and also inscribed in the Registry of Property of the South District and in the places above mentioned, in which document each one of the pieces of property described in parts A, B, and C were valued at ten thousand pesos, that in part D was valued at two thousand five hundred pesos. And by reason of the suspensory condition derived from the pacto de retro it was agreed that these five pieces of property be valued at the amount at which they were acquired, thirty-seven thousand five hundred pesos.

37,500

Total ..... 412,400

### *Rights.*

Thirty-ninth. One credit against Don Macario Fabila, resident of Dagupan, Pangasinan, for the amount of twenty-five thousand pesos, according to a promissory note subscribed by the same.....

25,000

Fortieth. Another credit against Don Raymundo Querol, resident of Vigan, Ilocos Sur, for the amount of four thousand pesos, according to a promissory note subscribed by him.....	4,000
118 Forty-first. Another credit against Don Juan Feraldo y Pascual, now deceased, for the sum of ten thousand six hundred and eighty-one pesos and fifty-three centimos, according to documents executed in this Capital before the Notary Don Numeriano Adriano the nineteenth of August, one thousand eight hundred and ninety-five and the eighteenth of September of the same year, numbered four hundred and eighteen and four hundred and fifty-nine, respectively, in the first of which the said Señor Feraldo acknowledged owing Doña Petronila Encarnacion the sum of eight thousand four hundred and eight-one pesos fifty-three centimos, which he promised to pay within the period of one year, counting from the date of the execution of the document; and in the second of said documents the same Señor Feraldo confessed to be indebted to Doña Petronila Encarnacion the sum of two thousand two hundred pesos, which he promised to satisfy within the period of eight months. ....	10,681.53
Forty-second. Another credit against the Fabrica de Hielo de Manila" sociedad anonima, for the sum of five hundred pesos, according to a mortgage given by said Compañia in favor of Don Pedro R. Sy-Quia the first of January of the present year.....	500
Total .....	40,181.53

119

*Shares.*

Forty-third. And account in participation in the steamer San Joaquin in the name of Don Pedro R. Sy-Quia in the sum of one thousand four hundred and forty-nine pesos.....	1,449
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The inventory and a valuation being performed in the foregoing manner, of all the property, rights and shares left by the deceased Don Vicente Romero Sy-Quia, and of those acquired after his death the following deductions are made:

*Property in General.*

It is constituted by

First. The one hundred and seventy-five thousand and sixty pesos and ten centimos in cash inventoried in the first to the ninth parts.....	175,060.10
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Second. The three hundred and thirty-eight pesos and twenty-five centimos worth of jewelry inventoried in the tenth paragraph.....	338.25
Third. The one thousand pesos worth of furniture inventoried in the eleventh paragraph.....	1,000.
Fourth. The four hundred and twence thousand four hundred pesos worth of real property inventoried in paragraphs twelve to thirty-eight.....	412,400
Fifth. The forty-thousand one hundred and eighty-one pesos and fifty-three centimos worth of rights inventoried in paragraphs numbered thirty-nine to forty-two .....	40,181.53
Sixth. The one thousand four hundred and forty-nine pesos worth of "actions" (shares) inventoried in paragraph number forty-three.....	1,449.
120 Grand total of all the property.....	\$630,428.88

*Liquidation of the Six Per Cent for Administration.*

In order to determine the profits produced by the property left by the deceased Don Vicente Romero Sy-Quia, since his death to this date, as stated in the third to ninth suppositions.

From the total inventoried which amounts, as stated above to ..... \$630,428.88  
there is to be deducted:

First. The amount inventoried on the twentieth of January one thousand eight hundred and ninety-four, which as stated in the third supposition amounted to three hundred and twelve thousand, eight hundred and seventeen pesos and ninety-seven centimos ..... \$312,817.97

Second. The increased price placed on the property acquired during the life-time of the deceased which amounts to the sum of sixty-seven thousand, eight hundred and ninety-two pesos. . 67,892.  
380,709.97

Leaving a balance of two hundred and forty-nine thousand, seven hundred and eighteen pesos and ninety-one centimos ..... 249,718.91

Which is the amount of profits produced which was the amount sought for and six per cent of which will be the amount of fourteen thousand nine hundred and eighty-three pesos and thirteen centimos. 14,983.13

121 *Deductions from the Total Amount of Property.*

From the total amount of property which is.....	630,428.88
the six per cent for administration is deducted and	
which amounts to .....	14,983.13

Which leaves a balance of six hundred and fifteen thousand four hundred and forty-five pesos and seventy-five centimos .....	615,445.75
--	------------

*Liquidation of the Community Property.*

From said balance.....	615,445.75
the private capital of the widow must be deducted as stated in the third supposition, which amounted to five thousand pesos.....	5,000."

Which leaves as community property six hundred and ten thousand, four hundred and forty five pesos and seventy-five centimos.....	610,445.75
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Which divided equally between the two spouses, there corresponds to each one three hundred and five thousand, two hundred and twenty-two pesos, eighty-seven and four-eighth centimos.....	305,222.87 4/8
--	----------------

*Liquidation of the Inheritable Credit.*

The part of the community property which corresponded to Don Vicente Romero Sy-Quia constitutes the property to be inherited and which amounts as we have seen to the sum of.....	305,222.87 4/8
---	----------------

From this amount there is to be deducted the thirtieth part which constitutes as stated in the seventh supposition, the legal usufructory portion of the widow and which amount to the sum of ten thousand one hundred and seventy-four pesos and nine and three eighth centimos...	10,174.09%
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And this leaves a net balance of two hundred and ninety-five thousand and forty-eight pesos and seventy-eight and one-eighth centimos.....	295,048.78 1/8
--	----------------

Which divided between the five heirs there corresponds to each one fifty nine thousand and nine pesos and seventy-five and five-eighth centimos....	59,009.75%
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*Liquidation of the Usufruct.*

Which by virtue of the parental custody corresponds to Don Eustaquio Mendoza, over the property of his son Don Generoso.

From the profits of the property left by Don Vicente Romero Sy-Quia which was, as shown when liquidating the six per cent for administration, the sum of..... 249,718.91

There is to be deducted as set out in the ninth supposition:

First. The six per cent for administration which amounts to..... 14,983.13

Second. The proportional part of the profits which corresponds to Doña Petronila Encarnacion and which amounts to ..... 117,367.89

And Third. The proportional part which corresponds to Doña Petronila by right of usufruct and which amounts to.... 3,912.25  
 136,263.28

123 Leaving a balance of one hundred and thirteen thousand, four hundred and fifty-five pesos and sixty-three centimos..... 113,455.63

Which divided between the five heirs, there corresponds to each one, twenty-two thousand, six hundred and ninety-one pesos and twelve and three-fifth centimos ..... 22,691.12 3/5

Which is the amount which corresponds to Don Eustaquio Mendoza by virtue of the usufruct and which must be deducted from the portion which, according to the foregoing liquidation, corresponds to Don Generoso Mendoza, therefore the inheritance of this interested party is reduced to thirty-six thousand, three hundred and eighteen pesos and sixty-three centimos ..... 36,318.63

*Adjudications.*

The inventoried estate being liquidated in the form set forth we proceed to form the schedules for each interested party, determining the amount due each one and immediately the property to be adjudicated in payment.

*Schedule of Doña Petronila Encarnacion y Singson.*

This interested party is to have:

First. The six per cent assigned to her for the administration of the estate and which amounts to fourteen thousand, nine hundred and eighty-three pesos and thirteen centimos..... 14,983.13



Second. As her portion of the community property, three hundred and five thousand, two hundred and twenty-two pesos and eighty-seven and four eighth centimos.....	305,222.87 4/8
124 Third. As her own private property, five thousand pesos .....	5,000.
Fourth. For the portion which corresponds to the deceased Doña Apolinaria Sy-Quia y Encarnacion and which belongs to her by succession, fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos .....	59,009.75 5/8

The total amount to this interested party three hundred and ninety-four thousand, three hundred and eighty-nine pesos and eighty-five and four-eighth centimos ..... 394,389.85 4/8

*Adjudication and Payment.*

In payment of her share there is adjudicated:

First. The cash inventoried under the captions first to fourth, amounting to one thousand five hundred and nine-one pesos and seventy centimos.....	1,591.70
Second. Of the cash inventoried under the fifth caption, sixty-five thousand, four hundred and eighty-four pesos and fifty and one-eighth centimos.....	65,484.50 1/8
Third. The jewelry inventoried in the tenth caption, amounting to three hundred and thirty-eight pesos and twenty-five centimos.....	338.25
Fourth. The furniture inventoried in the eleventh caption which amounts to one thousand pesos.....	1,000
125 Fifth. The real property inventoried in the twelfth, fifteenth, nineteenth, twenty-first, twenty-third, twenty-sixth, twenty-seventh, twenty-eighth, thirty-third, thirty-sixth, thirty-seventh and thirty-eighth captions, which amount in all to two hundred and eighty-five thousand, four hundred pesos.....	285,400
Sixth. The rights inventoried in the thirty-ninth to the forty-second captions, which amount in all to forty thousand, one hundred and eighty-one pesos and fifty-three centimos.....	40,181.53

Amount adjudicated to this interested party, three hundred and ninety-three thousand nine hundred and ninety-five pesos and ninety-eight and one-eighth centimos..... 393,995.98 1/8  
 And her share being three hundred and ninety-four thousand, three hundred and eighty-nine pesos and eighty-five and four-eighth centimos..... 394,389.85 4/8

There is still due her three hundred and ninety-three pesos and eighty-seven and three-eighth centimos.. 393.87 3/8  
 Which she will collect from her son Don Pedro.

*Schedule of Don Gregorio Sy-Quia y Encarnacion.*

This interested party is to have:

By his legal parentage, fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos. . . . 59,009.75%

*Adjudication in Payment.*

In payment of his share he is adjudicated:

126 First From the cash inventoried under the fifth caption, thirteen thousand, nine hundred and nine pesos and seventy-five and five-eighth centimos. . . . . 13,909.75%

Second. The real property inventoried under the fourteenth, twentieth, and twenty-second captions, which amounts in all to forty-five thousand and one hundred pesos. . . . . 45,100

The amount adjudicated to this heir, fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos . . . . . 59,009.75%

*Schedule of Don Pedro Sy-Quia y Encarnacion.*

This interested party is to have:

By his legal parentage fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos. . . . . 59,009.75%

In payment of his share he is adjudicated:

First. Of the cash inventoried in the sixth caption, amounting to thirty-five thousand, nine hundred and fifty-four pesos and sixty-three centimos. . . . . 35,954.63

Second. The real property inventoried in the thirteenth, twenty-fourth and thirty-fifth captions, which amounts in all to twenty-two thousand pesos. . . . . 22,000

127 Third. The shares inventoried in the forty-third caption, amounting to one thousand, four hundred and forty-nine pesos. . . . . 1,449

Amount adjudicated to this interested party, fifty-nine thousand four hundred and three pesos and sixty-three centimos. . . . . 59,403.63

And his share being fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos. . . . . 59,009.74%

There is an excess of three hundred and ninety-three pesos and eighty-seven and three-eighth centimos. . . . . 393.87%

Which he will pay to his mother Doña Encarnacion.

*Schedule of Don Juan Romero Sy-Quia y Encarnacion.*

This interested party is to have:

By his legal parentage, fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos. . . . 59,009.75%

*Adjudication in Payment.*

In payment of this share he is adjudicated:

In payment of his share he is adjudicated:

First. Of the cash inventoried in the fifth caption, nine thousand, five hundred and fifty-five pesos and twelve and five-eighth centimos. . . . 9,555.125%

Second. Of the cash inventoried in the seventh caption, the sum of nineteen thousand, nine hundred and fifty-four pesos and sixty-three centimos . . . . . 19,954.63

128 Third. The real property inventoried in the sixteenth, eighteenth and thirty-four captions, which amounts in all to twenty-nine thousand, five hundred pesos. . . . . 29,500

Amount adjudicated to this interested party, fifty-nine thousand and nine pesos and seventy-five and five-eighth centimos . . . . . 59,009.75%  
And his share being the same. . . . . 59,009.75%

It is apparent that it is paid. . . . . 00,000.00 0

*Schedule of Don Generoso Mendoza Sy-Quia.*

This interested party is to have:

By his legal parentage, thirty-six thousand three hundred and eighteen pesos and sixty-three centimos. . . 36,318.63

*Adjudication in Payment.*

In payment of this share he is adjudicated:

First. From the cash inventoried in the fifth caption, five thousand, five hundred and ninety-three pesos and thirty-five and five-eighth centimos. . . 5,593.35%

Second. From the cash inventoried in the eighth caption, the sum of two thousand, six hundred and seventy pesos . . . . . 2,670

Third. The real property inventoried in the seventeenth, twenty-fifth, twenty-ninth, thirtieth, thirty-first and thirty-second captions, which amounts in all to thirty thousand four hundred pesos.....

30,400

Amount adjudicated to this interested party  
129 being thirty-eight thousand, six hundred  
and sixty-three pesos and thirty-five and  
five-eighth centimos .....

36,663.35%

There is an excess of two thousand three hundred and  
forty-four pesos and seventy-two and five-eighth-  
centimos .....

2,344.72%

Which he will pay to his father Don Eustaquio.

*Schedule of Don Eustaquio Mendoza.*

This interested party is to have:

By his usufructory right, twenty-two thousand, six  
hundred and ninety-one pesos and twelve and three-  
fifth centimos.....

22,691.12 3/5

*Adjudication in Payment.*

In payment of this share he is adjudicated:

The cash inventoried in the ninth caption amounting  
to twenty thousand, three hundred and forty-six  
pesos and forty centimos.....

20,346.40

And his share being.....

22,691.12 3/5

There is due him two thousand, three hundred and  
forty-four pesos and seventy-two and three-fifth  
centimos .....

2,344.72 3/5

Which he will collect from his son Don Generoso.

*Comprobation.*

Amount adjudicated:

To Doña Petronila Encarnacion.....	395,995.98%
To Don Gregorio Sy-Quia.....	59,009.75%
To Don Pedro Sy-Quia.....	59,403.63
To Don Juan Sy-Quia.....	59,009.75%
130 To Don Generoso Mendoza.....	38,663.35%
To Don Eustaquio Mendoza.....	20,346.40

Total adjudicated.....

630,428.88

Total inventoried.....

630,428.88

Difference lost in distribution.....

000,000.00

It appears therefore that the distribution of the property is well done.—Declarations—It is declared: First. That if any other property and credits, belonging to this inheritance, appear they will be distributed between the interested ones in the same proportion as the inventoried property has been distributed; as well as that they will pay, in the same proportion, whatever debt, obligation or encumbrance which may appear and which was not acted on for lack of knowledge of its existence. Second. That the interested parties in these proceedings are mutually obligated to defend the titles of the property adjudicated to them, subjecting themselves in this respect to the general provisions of law. Third. That the expenses of these proceedings of distribution until their registration; those incurred in acquiring titles to the property which has not been registered in the Registry of Property and those of acts of general interest, will be paid by all the interested parties in the proportion to their respective participation; but those for all acts performed for their respective interests as well as those for obtaining copies of their schedules and the fees for the inscription in their name in the registry, of the property which has been adjudicated to them, will be at their own private expense. Fourth. That inasmuch as the

rents produced by the property during the months of May, 131 June and July last, have not been included in this distribution, the same will be distributed between the interested parties in the proportion that each one has in the property, when these proceedings are registered, first deducting the general expense referred to in the foregoing paragraph. Fifth. That the deeds of ownership of the property which was adjudicated to them will be delivered to each one of the interested parties.

With these declarations the proceedings of distribution which we performed faithfully and well in accordance with the law, trying at all times to do justice and equality, are considered closed. And that it may appear we sign in Manila, the first of August, one thousand and nine hundred. Erasures: Last July—portion last month four—five hundred—Last July—pin—5—a—9: Valid—between lines thirty also valid. Ldo. Felipe G. Calderon. Vicente Foz both with rubric.

Don Eustaquio Villablance de Mendoza, Probate Clerk of the Court of First Instance for the District of Quiapo, Certify that in the probate proceedings, instituted by Doña Petronila Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, and others, regarding the declaration of heirs there is the following order: Court of First Instance of Quiapo, the twenty-sixth of January, one thousand eight hundred and ninety-four: Order. It appearing that on the seventeenth instant Doña Petronila Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, and her children had by him, Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and Don Eustaquio Mendoza, in the name and representation of his minor son, Don Generoso Mendoza, had by his deceased

wife, Doña Maria Sy-Quia, also their legitimate daughter, 132 appeared in Court with the writing on p. 12 in which they pray that in virtue of the documents which accompany it

and the dispositions of the Arts. 961, 962 and 964 of the "Ley de Enjuiciamiento Civil" the Court, first considering the oral testimony which they offer and summoning the Prosecuting Attorney, declare them the heirs of the intestate of the said deceased Don Vicente Romero Sy-Quia, father, husband and grandfather of the petitioners. And it appearing that on the eighteen- instant the Court granted the prayer of the petitioners, admitting the oral information offered, with the summoning of the Prosecuting Attorney, as petitioned for in the said writing; p. 12; And it appearing that the petitioners presented as witnesses Don Lino Echaves, Don Juan Salgado and Don Tiburcio Cué, all of age, without legal disqualification to be witnesses, known to the actuary, who unanimously and affirmatively testified consistent with the prayer of the petitioners in the said writing, that they know of their own knowledge that Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan, surnamed Sy-Quia, are legitimate children and of legitimate marriage of the deceased, the said Don Vicente Romero Sy-Quia, had by his wife Doña Petronila Encarnacion, and that Don Generoso Mendoza is the grandson also legitimate of the same spouses as the son of the deceased Doña Maria Sy-Quia, legitimate daughter and of legitimate marriage of the same, and who was the wife of Don Eustaquio Mendoza, who represents his said minor son Generoso, without them knowing anything to the contrary and that the said Don Vicente Romero Sy-Quia did not execute a will before his death, whose heirs are his said children and grandchild, page 18 to 21; And it appearing that these proceedings being referred to the Prosecuting Attorney for his suggestion, this functionary indicated that the

133 Court should make the declaration prayed for by the petitioners without prejudice to a third party of equal or better rights p. 23. Considering the canonical certificates of pp. 1 to 11 and the affirmative declarations of three proper witnesses, presented in this hearing, it is decreed that it is properly established that Don Vicente Romero Sy-Quia died intestate, as well as that his heirs are his said children by right of representation. Considering that in this proceeding the legal requirements, established by Art. 964 and the following of the "Ley de Enjuiciamiento Civil" have been observed—the Honorable Don Felix Garcia Gavieres, Judge of the Court of First Instance of the District of Quiapo by regular substitution and before me the Clerk said: That he must and does declare the deceased Chinaman Don Vicente Romero Sy-Quia intestate and his heirs are his children Doña Apolonaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and his grandchild, Don Generoso Mendoza, as the son of the deceased Maria Sy-Quia and late wife of Don Eustaquio Mendoza, who represents his said minor son, without prejudice to a third party with equal or better rights, and to deliver to the interested parties proof of this order. It was so provided and ordered and signed by the Señor Judge, to which I certify.

(Sgd.)

(Sgd.)

FELIX GARCIA GAVIERES.

EUSTAQUIO V. DE MENDOZA.



In accord with its original which appears in the proceedings above cited to which I refer. And at the petition of the interested party I issued the present on two sheets of stamped paper of the eighth class for the present term of two years, in Quiapo and Clerk's office of my position, the twenty-sixth of January, one thousand eight hundred and ninety-four.—Eustaquio V. de Mendoza rubricated.

On the margin: There is a seal which says: Office of the Clerk of the Court of First Instance of the District of Quiapo.—Don

134 Lucio Ignacio, probate clerk of the Court of First Instance, of Tondo, Certify: That in the probate proceedings instituted by Don Generoso Mendoza y Sy-Quia, regarding the appointment of a guardian, there appears the orders and proceedings which copied literally are as follows:

Court of First Instance of the District of Tondo, the twenty-eighth of July, one thousand nine hundred. Being presented (omitted) with the accompanying document of mandate and their corresponding copies, let them be attached to the proper record and deliver said copies to the adverse party; In the first place the petitioner is made a party in the capacity he claims and let him be informed of all future proceedings; Attorney Don Felipe Gonzalez Calderon is hereby appointed guardian of the minor Don Generoso Mendoza y Sy-Quia for the sole purpose mentioned in the writing of the sixth instant. Furthermore, the power attached may be returned to the party appearing, leaving a copy thereof in its stead. It was so ordered and signed by His Honor to which I certify. Magsalin—Before me: Lucio Ignacio—rubricated.

"Appearance and Oath.—In the Court of First Instance of the District of Tondo, the thirtieth of July one thousand and nine hundred, before the Honorable Judge, I the clerk being present, appeared Señor Don Felipe Calderon, of legal age, by profession a lawyer and resident of this Capital, from whom His Honor received the oath which he took in accordance with law, offering in virtue thereof to perform faithfully and well the duties of guardian of the minor Don Generoso Mendoza y Sy-Quia for whom he had been appointed. This he makes known and signs after His Honor, to which I certify. Magsalin—Felipe G. Calderon—Lucio Ignacio—All rubricated".

Appearance. In the Court of First Instance of the Dis-  
135 trice of Tondo, the thirtieth of July one thousand nine hundred, before the Honorable Judge, I, the clerk being present, appeared the minor Don Generoso Mendoza y Sy-Quia, accompanied by his guardian Don Felipe Calderon and made known: That having need of proof of the order by which he was appointed guardian of Don Generoso Mendoza y Sy-Quia, of the notification and acceptance of his appointment and of the preceding appearance, to be used as convenient, petitions that the issuance of the desired proof be directed. This was manifested and I signed with his guardian after the Honorable Judge, to which I certify. Magsalin—Generoso M. Sy-Quia—Felipe G. Calderon, Lucio Ignacio. All rubricated." That related is true and that inserted is in accord with the originals which are on file in the proceedings above cited, to which I refer. And

at the petition of the interested party I issue the present with the O. K. of the Honorable Judge, in Manila and the Clerk's office under my charge, the first of August, one thousand nine hundred. Lucio Ignacio. Rubricated. O. K. Magsalin. Rubricated. There is a seal which says: Court of First Instance of Tondo, Manila. On the margin another seal of the Court Number forty-one.—In Manila the twenty-seventh of January, one thousand, eight hundred and ninety-four: Before me Don Numeriano Adriano, Notary Public of the Illustrious College and notarial district of this Capital, residing in the same, and the witnesses who will be named at the end being present, appeared the following persons: Don Eustaquio Mendoza y Fabian, industrial, widower, Doña Apolonaria Sy-Quia, occupied in the labors of a single woman, D. Pedro Sy-Quia y Encarnacion, lawyer and proprietor, married, D. Juan Sy-Quia y Encarnacion, industrial, married, and Don Gregorio Sy-Quia y Encarnacion, commission agent and married; who are of legal age and residents of this Capital, with the exception of the last, who is a resident of Vigan, Ilocos province, being a casual resident here, and the first four having exhibited to me their respective personal cedula of the sixth class, numbers Sixty-eight thousand, six hundred and thirty-two, fifty-nine thousand five hundred and seventy-nine, fifty-nine thousand, five hundred and eighty-two, fifty-nine thousand, five hundred and eighty-five, issued by the Administracion de Hacienda Publica of this province, the first in the last period and the others in the current, the last also having exhibited his personal cedula of the fourth class number seven hundred and seventy-five, issued by the Administracion Depositaria of the cedula, Ilocos Sur province on the second of January, of the current year.—The first of the persons appearing makes this appearance as legal representative of his minor son Don Generoso Mendoza y Sy-Quia, in his capacity as legal heir of his deceased grandfather Don Vicente Romero Sy-Quia, in representation of his mother Doña Maria Sy-Quia, capacity also claimed by the other parties appearing in this proceeding, as all appears from the document the contents of which are as follows: "Don Eustaquio Villablanca de Mendoza, probate clerk of the Court of First Instance for the District of Quiapo, Certify: That in the probate proceedings, instituted by Doña Petronila Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, and others, regarding the declaration of heirs there is the following order: Court of First Instance of Quiapo, the twenty-sixth of January, one thousand, eight hundred and ninety-four: Order. It appearing that on the seventeenth instant Doña Petronila Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, and her children had him Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and Don Eustaquio Mendoza, in the name and representation of his minor son, Don Generoso Mendoza, had by his deceased wife, Doña Maria Sy-Quia, also their legitimate daughter, appeared in Court with the writing on p. 12 in which they pray that in virtue of the documents which accompany it and the dispositions of the Arts. 961, 962 and 964 of the "Ley de Enjuiciamiento Civil" the Court, first considering the

oral testimony which they offer and summoning the Prosecuting Attorney, declare them the heirs of the intestate of the said deceased Don Vicente Romero Sy-Quia, father, husband and grandfather of the petitioners; And it appearing that on the eighteenth instant the Court granted the prayer of the petitioners, admitting the oral information offered, with the summoning of the Prosecuting Attorney, as petitioned for in the said writing p. 12; And it appearing that the petitioners presented as witnesses Don Lino Echaves, Don Juan Salgado and Don Tiburcio Cué, all of age, without legal disqualification to be witnesses known to the actuary, who unanimously and affirmatively testified consistent with the prayer of the petitioners in the said writing, that they know of their own knowledge that Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan, surnamed Sy-Quia, are legitimate children and of legitimate marriage of the deceased, the said Don Vicente Romero Sy-Quia, had by his wife Doña Petronila Encarnacion, and that Don Generoso Mendoza is the grandson also legitimate of the same spouses as the son of the deceased Doña Maria Sy-Quia, legitimate daughter and of legitimate marriage of the same, and who was the wife of Don Eustaquio Mendoza, who represents his said minor son Generoso, without them knowing anything to the contrary, and that the said Don Vicente Romero Sy-Quia did not execute a will before his death, whose heirs are his said children and grandchild, page 18 to 21; And it appearing that these proceedings being referred to the Prosecuting

138 Attorney for his suggestion, this functionary indicated that the Court should make the declaration prayed for by the petitioners without prejudice to a third party of equal or better rights, p. 23. Considering the canonical certificates of pp. 1 to 11 and the affirmative declarations of three proper witnesses, presented in this hearing, it is decreed that it is properly established that Don Vicente Romero Sy-Quia died intestate, as well as that his heirs are his said children by right of representation. Considering that in this proceeding the legal requirements, established by Art. 964 and the following of the "Ley de Enjuiciamiento Civil" have been observed—the Honorable Don Felix Garcia Gavieres, Judge of the Court of First Instance of the District of Quiapo by regular substitution, and before me the Clerk said: That he must and does declare the deceased Chinaman Don Vicente Romero Sy-Quia intestate and his heirs are his children Doña Apolinaria, Don Gregorio, Don Pedro and Don Juan Sy-Quia, and his grandchild, Don Generoso Mendoza, as the son of the deceased Maria Sy-Quia and late wife of Don Eustaquio Mendoza, who represents his said minor son, without prejudice to a third party with equal or better rights, and to deliver to the interested parties proof of this order. It was so provided and ordered and signed by the Señor Judge, to which I certify. Felix Garcia Gavieres—Eustaquio V. de Mendoza. In accord with its original which appears in the proceedings above cited to which I refer. And at the petition of the interested party I issued the present on two sheets of stamped paper of the eighth class for the present term of two years, in Quiapo and Clerk's office of my position, the twenty-sixth of January, one thousand eight hundred and

ninety-four. Eustaquio V. de Mendoza rubricated." In accord with its original to which I refer.—All of the said parties  
139 appearing are known to me and after being assured that they had the necessary legal capacity to execute the present public document of mandate, circumstances which in my judgment they possess without anything to the contrary being known to me, in the said capacity as heirs of the deceased Don Vicente Romero Sy-Quia, state and grant: First that they confer on Doña Petronila Encarnacion, resident of this Capital, sufficient power in law in order to, in the name of the grantors and using the rights and actions of the same, administer the property which they now possess and acquire in the future, to collect the rents and profits and exercise all other acts of a jealous and wise administrator: in order to rent said property for the time, price and conditions which she may deem proper; to oust and eject occupants and tenants when she thinks it convenient; in order to collect all amounts belonging to the grantors, either in cash, crops, merchandise and effects of the public debt and all other dues proceeding from whatever contract which she may have celebrated with the State, provinces, towns or persons, giving receipts and acknowledgments and canceling the mortgages or attachments by which the property of their debtors or bondsmen were detained; in order to pay all the taxes and contributions to which the property of the grantors may be found subject, and the salaries of their employees and servants; recovering the vouchers which she believes necessary; in order to receive accounts from all those who are obligated to render them to the grantors for having administered or had under their care property belonging to them; to examine and approve them and to take or pay the balance resulting therefrom and to execute the final receipts and all other proper documents; in order to compromise all those credits, rights and  
140 shares, active or passive, which the grantors have, or may have in the future, in the form she believes convenient, submitting their decision to the judgment of arbitrators or friendly adjusters and third parties in case of discord, promising to be governed by their findings; in order to concede to the debtors the benefits of peace and respite, to condone all or part of their credits; in order to admit in payment of debts all kinds of personal, real property or stock at the appraised value or at that agreed upon and upon the conditions that she deems proper; in order to accept simply or by inventory all the inheritances, testate or intestate, which correspond to the grantors, appointing receivers, experts and accountants, to approve the inventories, appraisements and divisions, taking possession of the property adjudicated them; in order to sell absolutely or conditionally any rustic or urban property possessed at the present time or may be acquired in the future, at the price deemed most advantageous, which is to be collected at once or in installments and with the conditions which she deems proper, declaring the encumbrances of the property and their source, obligating herself to defend the title to the same according to law and should the time come to redeem property thus alienated, to redeem the same satisfying the price fixed; in order to exchange any property of the grantors for

others of equal or distinct character for the price stipulated, collecting or paying the difference in values if there be any, obligating herself to defend the titles in accordance with law; in order to buy at public or private sale rustic or urban property which may be considered convenient for the grantors, at the price she deems proper, payable in cash or in installments and with the agreements and conditions which she deems proper; in order to borrow or

141 lend money or expendible property with the interest, time and conditions which she deems proper; collecting or paying the capital and profits when due; signing notes, private documents, or executing documents of mortgage or pledge of real or personal property which will be delivered or received as the case may be; in order to ask for the fixing and marking of boundaries of the property of the grantors before the authorities, administrative or judicial, instituting the proper proceedings therefor; in order to take the constructive or corporeal possession of all the property acquired by the grantors by whatever title, instituting if necessary the corresponding administrative or judicial proceedings; in order to ask preventive annotation of real property or property rights to which the grantors have a right either as legatees, partial creditors or in whatever other manner, converting all said annotations into final inscriptions canceling one or the other when proper; in order to institute proceedings in the Courts of First Instance or the Justice of the Peace in justification of the possession of the real property of the grantors for which they have no registered title of dominion, which will be continued through all their stages until their termination and inscription in the Registry of Property; in order to guarantee the contracts entered into by virtue of the powers granted herein to hypothecate any real property or property rights of the grantors; in order to accept sales of all kinds of merchandise, paying the price in cash or in installments as stipulated by her, taking or considering as received that which she purchases: in order to issue, accept, endorse and negotiate bills of exchange and drafts, satisfying or collecting their amount when respectively due or protesting them for failure of acceptance or payment, utilizing in such cases the rights granted by the Commercial Code, in order to reclaim their

142 amounts, interest, expenses and prejudices from the proper parties; in order to intervene in the surrender of property, acquittances, bankruptcies, restraints of debtors of the grantors, attending meetings held in regard to the appointment of trustees, receivers, examine credits and protesting against those not considered legitimate, to approve or oppose the propositions of the bankrupt and the accounts of the administrators; to protest against the graduation if she considers it improper; to celebrate whatever accommodation which in her judgment is advantageous, and to perform all necessary acts until the termination of said affairs and the incidents thereto; in order to deposit and put in current accounts amounts of cash in the General Deposit Box or other savings establishments, banking or mercantile, and to withdraw said sums in all or in part whenever she deems it proper, signing checks and other necessary vouchers; in order to bid and secure any contract or service of the



State, its dependencies, Corporations or individuals, which may be offered, for the amount which she believes acceptable, executing the contracts with the bonds and securities required; in order that the contracts and obligations undertaken by her may be contained in public documents containing the requisites and clauses proper to such cases, when she deems it necessary or is requested by the other party.—Second: In order to appear before the Supreme Tribunals, Courts and other competent authorities in all matters, criminal, civil, probate and contested, including acts of conciliation and trials, verbal, contested, administrative, proceedings governmental, ecclesiastical and military and all others in which the grantors have any interest, either as plaintiffs or defendants, and to present

143 complaints or informations, answers, exceptions, pleadings of all class and their copies, witnesses, documents and all other means of proof; to ask for demands, subpoenas, and summons, sequestrations, attachments, sales, foreclosures, to discredit and impeach witnesses and all other means of proof presented by the adverse parties, to properly challenge the tribunals, Honorable Justices, Judges, and all other competent authorities who intervene in the matters in all cases where it is proper, ratifying the document of challenge which she presents; to hear findings, decrees, rulings, orders and sentences; to accept the agreements made or any resolution dictated if in her opinion it is acceptable, and if they are prejudicial, to appeal, object, petition, and interpose recourses of complaint, force, nullity, responsibility, obrogation and revision, and all other ordinary and extraordinary proceedings which are proper, until all legal means, including administrative suspension treating of governmental proceedings are exhausted, compromising suits and questions when she deems it best, or continuing them in all their stages and incidents and performing all the necessary steps in order to obtain final sentence and complete execution; in order to transfer this power in whole or in part to whom she may see fit, the grantors promising to ratify and consider valid everything she may do in virtue of this power and not to complain in any manner: Thus it was declared and executed in the presence of the instrumental witnesses Don Serapio Valle Cruz and Don Lino Chaves, clerks, of legal age and residents of this Capital, known to me and who assured me that they were not disqualified to be witnesses. And advising all of the right to read this document or have it read, by their mutual agreement, I proceeded to faithfully read it in a perceptible voice, which being completed the grantors ratified its contents and all signed.

144 To all of which I certify as well as to the knowledge of the profession and residence of the grantors. E. Mendoza—Apolinaria R. Sy-Quia—Pedro Sy-Quia—Gregorio St-Quia—Juan R. Sy-Quia—Serapion V. Cruz—Lino M. Chaves. Sealed. Numeriano Adriano.

It is a first copy of the original which is attached to my public protocol of the current year, to which I refer. And at the request of the grantors I issued the present on these six sheets of stamped paper of the seventh class of the present period, which I sign and seal and rubricate in Manila the date of its execution. I certify.



Between lines execute—Valid. Then appears a sign—Numeriano Adriano—It is rubricated. There is a stamp of the Notary (number twenty-nine—In the City of Vigan the eighteenth of June one thousand nine) In accord with its original which appears on pp. 53 to 64 of the proceedings instituted by Doña Petronila Encarnacion and others, regarding the approval of the distributional proceedings of the deceased Don Vicente Romero Sy-Quia to which I refer. Between lines—in labors of a single woman—D. Pedro Sy-Quia y Encarnacion lawyer and proprietor married—D. Juan Sy-Quia y Encarnacion valid—In parenthesis number twenty-nine—In the City of Vigan the eighteenth of June one thousand nine—Not valid—Erasures Pedro—o—authorities—valid—Fran.co R. Cruz rubricated—Don Placido del Barrio, Clerk of the Court of First Instance of the District of Quiapo—Certify: That in the record of the proceedings instituted by Doña Petronila Encarnacion, regarding the declaration of an heiress on p. 10 there is to be found the following order which copied literally is as follows: Court of 1st Instance of Quiapo, ninth of July, 1900. Order—It appearing that Doña Petronila

145 Encarnacion, widow of the deceased Don Vicente Romero Sy-Quia, presented the foregoing pleading with the documents attached thereto, manifesting that her daughter Doña Apolinaria Romero Sy-Quia, one of the judicially declared heirs of the deceased Don Vicente Romero Sy-Quia, died without having executed a will, and without leaving children or legal descendants; and that the succession, for lack of these, corresponds to the ascendants; in orders to obtain the declaration of this right, offering oral information in support of the allegations, and petitioning that when terminated, with summons to the Prosecuting Attorney, she be declared the intestate heiress of her deceased daughter Doña Apolinaria Romero Sy-Quia; And it appearing that the matter in distribution, corresponded to this Court, and the information and the summoning of the Prosecuting Attorney being admitted, the witnesses Don Ricardo Vergara, Don Fausto Teodoro and Don Cosme Bustamante, knowledge of whom was certified to by the actuary, in their respective declarations, besides confirming the intestate death of Doña Apolinaria Romero Sy-Quia, stated that she did not leave any legal relatives in direct line of descent; And it appearing that the Honorable Prosecuting Attorney to whom the record was submitted returned the same with favorable recommendation—And it appearing that the intestate succession according to the disposition of Art. 935 of the Civil Code, through lack of children and legal descendants, corresponds to the ascendants;—And it appearing that Doña Apolinaria Romero Sy-Quia died intestate and left no children or legal descendants has been established in legal form the succession referred to corresponds to her mother Doña Petronila Encarnacion; And it appearing that the declaration of this right may be obtained by instituting the proper proceedings, and observing therein

146 the legal formalities, which has been done in the present case,—The Honorable Don Basilio Regalado Mapa, Judge of the First Instance of the District of Quiapo, before me the Clerk, stated: That he must and does declare that her mother Doña Petro-

nila Encarnacion is the intestate heir of the deceased Doña Apolinaria Romero Sy-Quia, to whom will be issued proof of this order; and return to her the document referred to leaving a note to that effect in its stead. So it was ordered and signed by the Honorable Judge, to which I certify. Basilio Regalado Placido del Varrio—Both rubricated. That inserted is literally in accord with the original, and which is on file in the page and in the record above cited, to which I refer in case it is necessary. And in compliance with the order contained in the foregoing order I extend and issue the present which I sign in Manila the ninth of July, one thousand nine hundred.—O. K. Regalado rubricated—Placido del Barrio—rubricated. Number four hundred and sixty-two.

In Manila the seventh of July, one thousand nine hundred: Before me, Don Jose Maria Rosado y Calvo, Attorney and Notary Public of this City and resident therein, appeared: Doña Petronila Encarnacion y Singson, proprietor, of legal age, widow, and resident of this Capital, with personal cedula and certificate of registration number eighty-seven thousand one hundred and eighty, issued by the Administracion de Hacienda publica of this province—And having, in my judgment, the necessary legal capacity to perform this act without anything to the contrary being known to me, freely and voluntarily declared: That she requires me, the undersigned Notary, to go to the domicile of Don Eustaquio Mendoza and demand him to make known the result of the liquidation of the accounts between himself and the person making this demand, and, in case he  
147 does so, the manner in which payment of the balance owed will be made. With which this minute was terminated, the undersigned Notary preparing the same which the party making the demand signs after reading the same herself in exercise of the right which the law gives her and finding it satisfactory and ratifies the contents and approves the additions: to all of which I certify. Petronila Encarnacion. There is a seal of the Notary—Ldo Jose Ma. Rosado y Calvo.—It is rubricated.

The next act, and on the same date, seventh of July, one thousand nine hundred, I, the undersigned Notary, having gone to the domicile of Don Eustaquio Mendoza, established in the house number one hundred and twenty-four of Calle Dulumbayan, of the suburb of Santa Cruz, of this City in virtue of the foregoing demand, having present the said Don Eustaquio Mendoza y Fabian, trader, of legal age, married, resident of the town of Silay, of the province of the Island of Negros, casual resident of this Capital in which he is sick, but in the full use and exercise of his faculties, including intellectual, demanded of him to make known the result of the liquidation of accounts existing between him and the party making the demand, and the manner in which he will pay the balance in her favor and against him, and he understanding my demand and having had the preceding minute read by Don Arcadio del Rosario y Narciso, Attorney, of legal age, married, and resident of this Capital, who was present in this act, answered: That in the form and manner most effective in law he declares that making the liquidation of the accounts between himself and Doña Petronila Encarnacion on that

date, and in respect to the amounts in cash that he had received from the said lady the whole amounted to fifteen thousand nine hundred and fifty-seven pesos, and naturally he freely and

148 voluntarily acknowledges it and for the payment thereof he desires that it be computed in the legal usufruct which may correspond to him as the legal father of the youth Generoso Mendoza, had during his first marriage, with Doña Maria Sy-Quia y Encarnacion, and who consequently is the grandson of the deceased Don Vicente Sy-Quia. With which this minute was declared terminated, the present minute being extended, the said Don Eustaquio Mendoza and Don Arcadio del Rosario y Narciso sign after the last named, being designated by him, read it in a loud and clear voice, and consequently being acquainted therewith ratify the contents thereof. To all of which I certify. E. Mendoza—Arcadio Rosario. There is a seal of the Notary. Lledo. Jose Ma. Rosado y Calvo. It is rubricated. In literal accord with the original to which I refer in case of necessity, which is on file number four hundred and sixty-two in order, in the general protocol of public instruments corresponding to the present year in the Notary's office of my charge, And in proof thereof at the request of Doña Petronila Encarnacion y Singson, I issue this copy without a number on account of its quality as a Notarial minute, on these two sheets of stamped paper of the eighth class, qualified for the present year, leaving a note on the original to this effect which has the additions: e: i: ra: e: i:, which I seal with that of my position, sign and rubricate in Manila the eleventh of July, one thousand nine hundred. Lledo. Jose Ma. Rosado y Calvo—rubricated—There is a seal of the Notary's office.—Number twenty-nine—In the City of Vigan, the eighteenth of June, one thousand nine hundred. Before me Don Doroteo Alviar y Arce, Probate Clerk of the Court of First Instance of this province and acting Notary Public of the same, that position being

149 vacant, in virtue of the order No. 19, dated the thirty-first of January, last, of the Military Governor of the U. S. in these Islands, with domicile and residence in the Capital, appeared:—Don Gregorio Romero Sy-Quia, forty-two years of age, married, merchant, local resident, with registration cedula number seventy-six thousand, five hundred and seventeen, issued by the Military Administration, on the eighth of January, last, and he being, in my judgment, legally qualified to execute the present document of mandate, freely and voluntarily and without the aid of an interpreter stated:—That in the proper legal form he confers general powers of attorney on the Señores Don Mena Crisologo y Pecson, in the first place, Don Vicente Singson y Encarnacion, in the second, and Don Socorro de los Reyes del Rosario, in the third, all of legal age and residing at the present time in the Capital of Manila,—in order that in the capacity *insolidum* ó *mancomun*, that is, jointly or severally, they represent the grantor in all the matters which is convenient to him, particularly in the distribution of the property left by his father, Don Vicente Romero Sy-Quia, at the time of his death, performing in union with the other heirs the proceedings of distribution and adjudication of the said property, to appoint liquidators, solicit

judicial approval of the participations, its attachment to the proper record; in order to sell the real property of the estate which may be necessary in order to realize the adjudication of the testamentary share of each heir, and perform other indispensable acts to terminate said proceedings; In order that always in representation aforesaid, to celebrate acts of conciliation, arbitration, misdemeanors and of ejectments, to consent to or not in the first, and continuing the

second through all their stages, representing and defending  
 150 the grantor in all matters, civil, criminal, administrative, probate and contested administrative, which he has pending, and which he may have in the future, before all classes of authorities, Courts and Tribunals, to which end they will present the documents, pleadings, solicitudes, petitions, complaints and answers which may be necessary; to ask and to continue executions, attachments, releases, sales, foreclosures, arrests and releases, incidental pleadings; to hear orders, dispositions, resolutions and final sentences, consenting to the favorable and appealing from the adverse; to offer and to furnish oral and documentary proof; to object and to impeach that of the adverse party and any functionary; to accept subpoenas and summons, to continue these recourses and the extraordinary ones that may be proper, including that of writ of error before the Supreme Court of Justice, until final sentence or deliberation and compliance therewith, without omitting any act, diligence, nor effort, and all proceedings provided by laws of procedure; to desist and abandon the claims whatever the stage in which they may be; to substitute this power in favor of whoever they may deem proper, obligating himself to the stability and firmness of all that the said attorneys in fact and substitutes may do in virtue hereof and not to complaint against it under any circumstances. In testimony whereof he executes and signs it with the instrumental witnesses, Don Rivero M. Rivas Roiso and Don Clemente Avila y Agpaad, clerks, of legal age, of this locality, and without defect to be witnesses according to their assurances to me, prior to the reading which I did at their request upon being informed of their rights which they waived. To all of which, the personality, profession, and residence of the grantor, I certify. (Greg. C. R. Sy-Kias—Severino M. Rivas—Clemente

Avila Rubricated—Sealed—Doroteo Alviar Rubricated—  
 151 Fees No. 1 Ar. 1 four pesos and fifty centimos. There is a Notary's seal. In accord with its original to which I refer, which is on file in my current protocol of public instruments, numbered twenty-nine in order. In testimony whereof and at the instance of the grantor, I issued the present first copy on two sheets of common paper properly reintegrated, annotating the original of this issue, which I seal, sign, subscribe and rubricate in Vigan the day of its execution. Amendments:—e—e—a—e—D—r; Between lines—division and adjudication—Valid. In parenthesis: Necessity of Greg—Not valid. Signed—Doroteo Alviar—Rubricated. Fees No. 16 and 17 Ar. 1—one peso and eighty-five centimos—There is a Notarial seal. In accord with the original which appears on pp. 70 to 73 of the proceeding instituted by D. a Petronila Encarnacion and others, regarding the approval of the distributional proceedings

of the deceased on Vicente Romero Sy-Quia, to which I refer. Manila, thirteenth of August, one thousand nine hundred to which I certify. Franco R. Cruz—Rubricated—

Number four hundred and fifty-one. In Manila the fifteenth of June; one thousand nine hundred. Before me, Don Calixto Reyes y Cruz, Notary Public of the Notarial District of this Capital, with domicile and residence in the same,—Appears: Don Francisco Mendoza y Fabian, native of the town of Santa Maria of the province of Bulacan, resident of Silay, of the province of Negros Occidental, and casually in this Capital, of legal age, married, industrial, and with certificate of registration or cedula of identification, number sixteen thousand and sixteen, issued by the Administracion de Rentas, of the province of Iloilo. And having, in my judgment, the necessary legal capacity to execute this document of mandate, without anything to the contrary being known to me, freely and voluntarily manifested—That he grants and confers full powers as required by law in favor of the Señores Don Arcadio del

152 Rosario y Narciso and Don Genaro Heredia y Vychangco, the latter a Notary Public of this Capital and the former of this locality, of legal age, lawyer, in order that indiscriminately either one of them, representing the person, rights and actions of the grantor, may execute and perform the following acts and contracts:—To represent the grantor in whatever inheritance, testate or intestate, and claim the widower's usufruct which corresponds to him as the widower of Doña Maria R. Sy-Quia y Encarnacion, in his first marriage, and the usufructo-ry share which corresponds to him in the property of his minor son Don Generoso Mendoza y Sy-Quia, up to the date that he was emancipated by reason of his marriage, first performing the distributional proceedings, appointing receivers, experts and appraisers, and approving the inventories and appraisements;—To compromise credits, shares and rights, active and passive, of the grantor as the possessor of usufructo-ry rights, and those of his said son in a manner advantageous to them, and to specially represent his said son in the proceedings of distribution of whatever inheritance corresponds to him; to accept and take possession of the property which may be adjudicated to the grantor, to administer it and collect the rents;—To sell to the first vendor the real property which is adjudicated the grantor which was sold with pacto de retro, at the price stipulated, which they will collect in cash or in installments or acknowledge receipt thereof; to pay the persons who have a right to collect from the grantor by reason of any contract which he celebrated in a public or private document and after the date of the death of his said wife in his first marriage;—In order that the

153 acts and contracts which they perform be set out in public or private documents with the clauses proper to their character; inscribing in the registry of property the real property or property rights of the grantor; In order that in case of necessity they assist and defend him in all suits and cases of whatever judicial matters, ordinary as well as special, in which he has an interest and which must be ventilated before the Courts of justice;—to appear before the said courts, to bring actions for the said grantor, insti-



to institute civil suits, verbal, declarative, executive, possessory, interventions, preliminary investigations, universal trials, criminal causes and contested administrative remedies; to celebrate acts of conciliation, institute probate proceedings, file complaints, informations, and pleadings of all kinds, ratifying them under oath in open court; to take exceptions, present and furnish testimony, oral, documentary, expert, and all others known in law; to acquit positions, contradict and discredit all that offered by the adverse parties; to interpose and institute questions of jurisdiction when proper; to receive and to hear notifications, subpoenas and summons, to attend trials, prepare briefs, to accept the favorable and to appeal from the judicial resolutions which are prejudicial to the said grantor, interposing the recourses of reposition, petition, appeal, clarification, challenge, revision nullity and of responsibility, to abandon the recourses interposed; to ask for joinders, demands, attachments, releases, sales of property, adjudications, and everything that may be asked in law; to continue the suits, causes and whatever judicial matters of the grantor, though all their stages and instances until their termination; in order to perform in fact all the acts and proceedings provided by the laws of procedure, to sustain said judicial matters. And in

order to substitute this power in the part which relates to  
 154 suits to revoke substitutions and make new ones;—In fact he grants full and complete powers on his appointed attorneys in fact, for that set forth, any anything connected therewith, incident thereto or consequent thereof, promising under the most solemn obligation provided by law to consider as subsistent and valid everything performed in virtue hereof and not to complain against it under any circumstances.

Thus he says and executes, Don Tomas Diaz e Inocencio and Don Ciriaco Panuncio, of legal age, employees and residents of this Capital, being witnesses; they being informed of the rights the law gives them to read this document or have it read; I proceeded to read it for their benefit, the contents of which the grantor ratifies and signs with the said witnesses. To the contents of this document, the personality, profession, and residence of all parties, I certify. E. Mendoza—Tomas Diaz—Ciriaco Panuncio—Sealed—Calixto Reyes—All rubricated—It is a first copy of the document of mandate authorized by me which appears under the number four hundred and fifty-one, in order, of my protocol of the present year, to which I refer. And I issue it to the grantor on these two sheets of stamped paper of the seventh class authorized for the present year and marked with the numbers 25758 and 25759, which I seal, sign and rubricate in Manila the date of its execution, which contains erasures—Valid—I certify. Sealed. Calixto Reyes. Fees—One peso and eighty-five centimos. Nos. 16 and 17 Ar. 1—There is a Notary's seal.—In accord with the original which appears on pages 74 to 77 of the proceedings instituted by D. a Petronila Encarnacion and others regarding the approval of the distributional proceedings of the deceased Don Vicente Romero Sy-Quia, to which I refer. And from which

I took this copy composed of six serviceable pages. Manila,  
 155 third of August, one thousand nine hundred, to which I certify. Franco. R. Cruz—rubricated.



To the Court of First Instance: Doña Petronila Encarnacion y Singson, widow; Don Mena Crisologo y Pesson, married, in the name and representation of Don Gregorio R. Sy-Quia y Encarnacion, who executed a power in my favor, as justified by the first copy of that document, attached hereto; Don Pedro R. Sy-Quia y Encarnacion; Don Juan R. Sy-Quia y Encarnacion, both widowers; Don Generoso Mendoza y Sy-Quia, married, with my guardian Don Felipe Calderon; and Don Arcadio del Rosario, in the name and representation of Don Eustaquio Mendoza, according to the power also attached hereto: all residents of this Capital, with due respect and proper form, State:—That the attorneys, Don Felipe Gonzalez y Calderon and Don Vicente Foz y Romasanta, appointed by us as appraisers and distributors of the property, rights and shares left at the time of his death by Don Vicente Romero Sy-Quia, husband, father and grandfather of the deponents, have performed the operations of inventory, distribution and adjudication, which we attach to this document, with which proceedings we are all satisfied; but it being necessary that the same be judicially approved according to the spirit of article one thousand and sixty of the Civil Code, because one of the deponents is a minor, we present said proceedings, written on forty-seven sheets of ordinary paper, to this Court,—Petitioning that the same be considered as filed with this document and the other documents mentioned therein, that the order approving the said proceedings of distribution be dictated and their registration in the office of the Notary Don Jose M. a Rosado ordered: because it is justice we ask. In Manila the second of August, one thousand nine hundred.—Petronila Encarnacion—rubricated; Mena Crisologo—rubricated; Pedro Sy-Quia—rubricated; Pedro Sy-Quia—rubricated; Juan R. Sy-Quia—rubricated; Felipe G. Calderon—rubricated.—Arcadio Rosario—rubricated.—G. M. Sy-Quia.

In ordinary assignment this corresponds to the Court of First Instance of Intramuros. Manila August 2, 1900. El Oficial Letrado Ramon Salinas—rubricated.—There is a seal which says: Supreme Court of Justice, Philippine Islands. Court of 1st Inst. of Intram. s, the second of August, 1900—Order: Let the foregoing matter, received in the assignment be alternated among the Clerks of this Court and when terminated let report be made. So ordered and signed by H. H. to which I certify.—E—Jose Basa—rubricated.—Before me Franco R. Cruz—rubricated.—This matter was assigned to the undersigned Clerk with the intervention of the Honorable Judge. Manila August 2, 1900. Franco R. Cruz, rubricated.—O. K. Basa—rubricated.

Notification: In Manila, the second of August, one thousand nine hundred, I notified Doña Petronila Encarnacion y Singson of the foregoing order, being advised of which with copy she signed, to which I certify.—Petronila Encarnacion—rubricated.—Cruz—rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Mena Crisologo of the foregoing order, and being advised thereof with copy, he accepted notification and signed, to which I certify. Mena Crisologo—rubricated.—Cruz—

rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Pedro Sy-Quia of the foregoing order, and being advised thereof with copy he accepted notification and signed to which I certify. Pedro Sy-Quia—rubricated—Cruz—rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Juan R. Sy-Quia of the foregoing order, being advised of which with copy he accepted notification and signed, to which I certify. Juan R. Sy-Quia—rubricated—

157 Cruz—rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Felipe Calderon of the foregoing order, being advised of which with copy he accepted notification and signed, to which I certify? Felipe G. Calderon—rubricated.—Cruz—rubricated: Another: In Manila, the second of August, one thousand nine hundred, I notified Don Arcadio del Rosario of the foregoing order, being advised of which with copy, he accepted notification and signed, to which I certify. Arcadio Rosario rubricated;—Cruz—rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Generoso Mendoza y Sy Quia of the foregoing order, being advised of which with copy he accepted notification and signed to which I certify. G. M. Sy Quia—rubricated—Cruz—rubricated.

Court of 1st Inst. of Intramuros, the second of August, 1900. Order. Let the petitioners ratify the contents of the foregoing document without prejudice to their reintegrating the paper improperly used and when done let report be made. So ordered and signed by H. H. to which I Certify.—M—Basa Rubricated. Before me Franco R. Cruz—rubricated. Notification.—In Manila the second of August, one thousand nine hundred, I notified Doña Petronila Encarnacion of the foregoing order and being advised thereof with copy, she accepted notification and signed, to which I certify. Petronila Encarnacion—rubricated. Cruz—Rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Mena Crisologo of the foregoing order, and being advised thereof with copy accepted notification and signed, to which I certify. Mena Crisologo—rubricated.—Cruz—rubricated. Another: In Manila, the second of August, one thousand nine hundred, I notified Don Pedro Sy Quia of the foregoing order, being advised of which with copy he accepted notification and signed, to

158 which I certify. Pedro Sy Quia—rubricated—Cruz—rubricated. Another: In Manila, the second of August, one thousand nine hundred, I notified Don Juan R. Sy Quia of the foregoing order, being advised of which with copy he accepted notification and signed, to which I certify. Juan R. Sy Quia—rubricated—Cruz—rubricated. Another: In Manila, the second of August, one thousand nine hundred, I notified Don Felipe Calderon of the foregoing order, being advised of which with copy he accepted notification and signed, to which I certify. Felipe Calderon—rubricated.—Cruz—rubricated. Another: In Manila the second of August, one thousand nine hundred, I notified Don Arcadio del Rosario of the foregoing order, and being advised thereof with copy he accepted notification and signed to which I certify. Arcadio Rosario—rubri-

cated; Cruz—rubricated. Another: In Manila, the second of August, one thousand nine hundred, I notified Don Generoso Mendoza y Sy Quia of the foregoing order, and being advised thereof with copy he accepted notification and signed to which I certify. G. M. Sy Quia—rubricated—Cruz—rubricated.

Ratification of Doña Petronila Encarnacion.—In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred; before the Honorable Judge and this Clerk, appeared Doña Petronila Encarnacion, who stated that she is a widow, of legal age, resident of this Capital, dedicated to the labors of her sex, being duly sworn in legal form, under which she offered to tell the truth regarding all she knew and was Asked—Being shown the document which appears on p. 78 in order to state whether she ratifies and affirms the contents thereof, and being acquainted therewith, Stated that she affirms and ratified (the contents thereof) in all its parts, which statement she affirmed, ratified and signed after

H. Honor, to which I certify. M—Basa—Petronila Encarnacion—Fran.co R. Cruz.—All rubricated.—That of

159 Don Mena Crisologo—In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk appeared Don Mena Crisologo, who stated that he was married, of legal age, by occupation a proprietor, resident of this Capital, with personal cedula of the current period, who was sworn in legal form, under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78, in order to state whether he ratifies and affirms the contents thereof, and being acquainted therewith, Stated that he affirms and ratifies it in all its parts. Which statement he affirmed, ratified and signed after H. Honor, to which I certify. M—Basa—Mena Crisologo—Fran.co R. Cruz. All rubricated.

That of Don Pedro Sy Quia.—In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk appeared Don Pedro Sy-Quia, widower, merchant, resident of this Capital with personal cedula of the current period, who was sworn in legal form under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78 in order to state whether he ratifies and affirms the contents thereof, and being acquainted therewith, Stated that he affirms and ratifies it in all its parts. Which statement he affirmed, ratified and signed after H. Honor, to which I certify. Pedro Sy-Quia rubricated;—Basa—rubricated—Fran.co R. Cruz—rubricated.

That of Don Juan R. Sy-Quia. In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk, appeared Don Juan R.

160 Sy-Quia, widower, by occupation a merchant, resident of this Capital, with personal cedula of the current period, who was sworn in legal form under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78 in order to state whether

he ratifies and affirms the contents thereof, and being acquainted therewith, Stated that he affirms and ratifies it in all its parts. Which statement he ratified, affirmed and signed after H. Honor, to which I certify. Juan R. Sy-Quia—rubricated—M—Basa—rubricated—Francisco R. Cruz—rubricated. That of Don Felipe Calderon.—In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk, appeared Don Felipe Calderon, married, by occupation a lawyer, resident of this Capital, with personal cedula of the current period, who was sworn in legal form under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78 in order to state whether he ratifies and affirms the contents thereof, and being acquainted therewith, Stated that he affirms and ratifies it in all its parts. Which statement he affirmed, ratified and signed after H. Honor, to which I certify. M—Basa—rubricated—Felipe Calderon—rubricated—Francisco R. Cruz—rubricated. That of Don Arcadio del Rosario. In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk, appeared Don Arcadio del Rosario, married, by occupation a Notary, resident of this Capital, with personal cedula of the current period, who was sworn in legal form under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78 in order to state whether he ratifies and affirms the contents thereof, and being acquainted therewith,

181 Stated that he affirms and ratifies it in all its parts. Which statement he affirmed, ratified and signed after H. Honor, to which I certify. M—Basa—rubricated Arcadio Rosario—rubricated—Francisco R. Cruz—rubricated. That of Don Generoso Mendoza y Sy-Quia. In the Court of First Instance of Intramuros, the second of August, one thousand nine hundred, before the Honorable Judge and this Clerk, appeared Don Generoso Mendoza y Sy-Quia, married, twenty years of age, resident of this Capital, with personal cedula of the current period, who being duly sworn in legal form under which he offered to tell the truth regarding what he knows and he was asked: Being shown the document which appears on p. 78 in order to state whether he ratifies and affirms the contents thereof, and being acquainted therewith, Stated that he affirms and ratifies it in all its parts. Which statement he affirmed, ratified and signed after H. Honor, to which I certify. Erasmos—twenty years of—Valid—M—Basa—rubricated; G. M. Sy-Quia—rubricated—Francisco R. Cruz—rubricated.

In the Court of First Instance of Intramuros, the third of August, one thousand nine hundred, before the Honorable Judge and this Clerk appeared Doña Petronila Encarnacion, manifesting that the document of mandate on page 53 is needed for other purposes, and at the same time presenting the reintegration of the paper used in the distributional proceedings p. 1 to 47 and petitioning the Court to direct the withdrawal of the said mandate, leaving a certificate to that effect in its stead and to consider the reintegration as presented.

With which the present proceeding was terminated, the petitioner signing after His Honor to which I certify. Basa—rubricated: Petronila Encarnacion—rubricated—Fran.co R. Cruz—rubricated.

—Appearance: In the Court of First Instance of Intramuros, the third of August, one thousand nine hundred, appeared

162 Don Mena Crisologo manifesting that the document of mandate on p. 70 is needed for other purposes, and petitioning the Court to direct its withdrawal leaving a certificate to that effect in its stead. With which this proceeding was terminated, the petitioner signing after His Honor to which I certify. M—Basa—rubricated—Mena Crisologo—rubricated—Fran.co R. Cruz—rubricated.

In the Court of First Instance of Intramuros, the third of August, one thousand nine hundred, before the Honorable Judge and this Clerk appeared Don Arcadio del Rosario, manifesting that the mandate on p. 74 is needed for other purposes and petitioning the Court to authorize its withdrawal leaving a certificate to that effect in its stead. With which this proceeding was terminated, the petitioner signing after His Honor, to which I certify. M—Basa—rubricated—Arcadio Rosario—rubricated—Fran.co R. Cruz—rubricated.

Payments to the State 25 pesos. U. S. Military Government 1900—Internal Revenue—N/O. 000760—Lower part to be attached to the record: Reintegration of the paper used in the distributional operations of the estate of the deceased Don Vicente Romero Sy-Quia pp. 1 to 47 in the proceedings instituted by Doña Petronila Encarnacion y Singson, and others, regarding the approval of the said operations. Manila 3 of August, 1900.—Cruz—rubricated.

Payments to the State 25 pesos. U. S. Military Government, 1900 Internal Revenue. N. O. 000759—Lower part to be attached to the record. Reintegration of the paper used in the distributional operations of the estate of the deceased Don Vicente Romero Sy-Quia pp. 1 to 47 in the proceedings instituted by Doña Petronila Encarnacion y Singson and others, regarding the approval of the said operations. Manila 3 of August, 1900.—Cruz—rubricated.

Court of First Instance of Intramuros, third of August 1900. Order. In view of the foregoing appearances, Put the proper annotation on the reintegration filed, withdraw the powers therein referred to and return them to the petitioners, leaving certificates in their stead, and when done make report. So ordered and signed by His Honor, to which I certify. M—Basa—rubricated—Before me Fran.co R. Cruz—rubricated.

Notification: In Manila the third of August, one thousand, nine hundred, I notified Doña Petronila Encarnacion of the foregoing order, and being advised thereof with copy, signed, to which I certify.—Peronila Encarnacion—rubricated—Cruz—rubricated.

Notification: In Manila the third of August, one thousand nine hundred, I notified Don Mena Crisologo of the foregoing order, and being advised thereof with copy, signed, to which I certify. Mena Crisologo—rubricated. Cruz—rubricated. Notification: In Manila the third of August, one thousand nine hundred: I notified Don Pedro Sy-Quia of the foregoing order, and being advised thereof with copy, signed, to which I certify.—Pedro Sy-Quia—rubricated—

163



Cruz—rubricated. Notification: In Manila the third of August, one thousand nine hundred: I notified Don Juan R. Sy-Quia of the foregoing order, and being advised thereof with copy signed, to which I certify. Juan R. Sy-Quia—rubricated; Cruz—rubricated. Notification: In Manila the third of August, one thousand nine hundred: I notified Don Felipe Calderon of the foregoing order, and being advised thereof with a copy, signed, to which I certify. Felipe G. Calderon—rubricated; Cruz—rubricated: Notification: In Manila the third of August, one thousand nine hundred I notified Don Arcadio del Rosario of the foregoing order, and being advised thereof with copy, signed, to which I certify. Arcadio Rosario—rubricated; Cruz—  
 164 rubricated; Notification: In Manila the third of August, one thousand nine hundred, I notified Don Generoso Mendoza Sy-Quia of the foregoing order, and being advised thereof with copy, signed, to which I certify.—G. M. Sy-Quia—rubricated; Cruz—rubricated.

Certificate of withdrawal and delivery: I hereby make it known that this third day of August, one thousand nine hundred, in compliance with the provisions of the foregoing order, the power on p. 53 to 64, was withdrawn, leaving a certificate to that effect in its stead, and the same was delivered to Doña Petronila Encarnacion who, having received the same, signed this entry, to which I certify.—Petronila Encarnacion — rubricated. Cruz — rubricated. Another: In Manila the third of August, one thousand nine hundred, in compliance with the provisions of the foregoing order, the power on p. 70 was withdrawn, leaving a certificate to that effect in its stead and delivered the same to Don Mena Crisologo, who, having received the same, signed this entry, to which I certify.—Mena Crisologo—rubricated; Cruz—rubricated. Another: In Manila the third of August, one thousand nine hundred, in compliance with the provisions of the foregoing order the power on p. 74 was withdrawn leaving a certificate to that effect in its stead, and delivered the same to Don Arcadio del Rosario, who, having received the same, signed this entry, to which I certify.—Arcadio Rosario—rubricated; Cruz—rubricated.

Court of First Instance of Intramuros, the third of August, one thousand nine hundred:—Order—Whereas on the second instant Doña Petronila Encarnacion, widow; Don Mea Crisologo y Person in representation of Don Gregorio Romero Sy-Quia y Encarnacion, whose personality is established by the power on p. 70; Don  
 165 Pedro and Don Juan Sy-Quia y Encarnacion; Don Generoso Mendoza y Sy-Quia, married, with his guardian Don Felipe Calderon, whose capacity is established by the certificate p. 51; and Don Arcadio del Rosario, in representation of Don Eustaquio Mendoza, justifying his personality by the power on p. 74: presented the writing on p. 78, manifesting that the said Don Felipe Calderon and Don Vicente Foz y Romasanta, attorneys appointed by them, as appraisers, distributors of the property, rights and shares of the deceased Don Vicente Romero Sy-Quia, husband of the first, father and grandfather respectively of the last, have performed the distributional proceedings of the said estate, which are attached hereto on pp. 1 to



47 with which operations all declared themselves satisfied, and the judicial approval of the said operations being necessary in accordance with the spirit of article 1060 of the Civil Code because Don Generoso Mendoza is a minor, concluding with the petition that, the said operations have been presented, together with the other documents attached thereto, they be approved and that the registration thereof in the office of the Notary Public José Maria Rosado be ordered: Whereas the petitioners ratified the contents of the said document after the assignment of the matter to this Court and the Clerk's office of the present actuary; And it appearing that the distributional proceedings presented by the petitioners were performed in accordance with the provisions of art. 1060 of the "Ley de Enjuiciamiento Civil" and the amount thereof is the same as the inheritable portion to be distributed;—And it appearing: that all of the interested parties being satisfied with the said distributional proceedings, it is proper to grant the desired approval: The Señor Don Jose Basa Enriquez, Judge of First Instance of the District of Intramuros, before me the Clerk

166 Stated: The distributional proceedings of the property which constitute the estate of the deceased Don Vicente Romero

Sy-Quia are approved according to law, that the same be protocolled in the Registries of Don Jose Maria Rosado, Notary Public of this Capital, by whom will be issued to the interested parties the parties the proof that they require. So ordered and signed by His Honor, to which I certify. E—Jose Basa—Before me Franco R. Cruz—both rubricated. Notification: In Manila the third of August, one thousand nine hundred, I notified Doña Petronila Encarnacion of the foregoing order, who, being informed thereof with copy, signed, to which I certify. Petronila Encarnacion—rubricated; Cruz—rubricated. Another: In Manila the third of August, one thousand nine hundred, I notified Don Mena Crisologo of the foregoing order, who, being informed thereof, with copy, signed, to which I certify. Mena Crisologo—rubricated; Cruz—rubricated: Another: In Manila the third of August, one thousand nine hundred, I notified Don Pedro Sy-Quia of the foregoing order, who, being informed thereof with copy, signed, to which I certify. Pedro Sy-Quia—rubricated; Cruz—rubricated. Another: In Manila the third of August, one thousand nine hundred: I notified Don Juan R. Sy-Quia of the foregoing order, who, being informed thereof with copy, signed, to which I certify. Juan R. Sy-Quia—rubricated; Cruz—rubricated. Another: In Manila the third of August, one thousand nine hundred: I notified Don Felipe Calderon of the foregoing order, who, being informed thereof with copy, signed, to which I certify. Felipe G. Calderon—rubricated; Cruz—rubricated. Notification: In Manila the third of August, one thousand nine hundred. I notified Don Arcadio del Rosario of the foregoing order, who being informed thereof with copy, signed, to which I certify. Amended—  
167 Order—Valid—Arcadio Rosario—rubricated; Cruz—rubricated. Another: In Manila the third of August, one thousand nine hundred, I notified Don Generoso Mendoza y Sy-Quia of the foregoing order, who, being informed thereof with copy, signed, to which I certify. G. M. Sy-Quia—rubricated; Cruz—rubricated.

**Certificate of delivery:** In Binondo, the third of August, one thousand nine hundred, in compliance with the provisions of the foregoing order, I delivered to Don Jose Maria Rosado this record and having received the same he signed a receipt showing the number of pages, to which I certify. Jose M. a Rosado y Calvo. Rubricated; Cruz—rubricated.

The foregoing copy is literally taken from its original which is on file in this office, which I sign and seal in the City of Manila, the twenty-fifth of October, one thousand nine hundred and five.

[Seal Chief of the Bureau of Archives, ex-Officio Notary Public.]

(Sgd.)

M. DE YRIARTE,

*Chief of the Bureau of Archives,  
ex-Officio Notary Public.*

There is a 20 centimos documentary stamp of the Internal Revenue Bureau cancelled by the words "Bureau of Archives being stamped across the face of it.

168

(Heading and Title Omitted.)

*Stipulations.*

It is hereby stipulated by and between the plaintiffs and defendants that the time for the preparing and filing written arguments in the above entitled case may be extended as follows:

The plaintiffs to have thirty (30) days from this date to file their written arguments and the defendants to have thirty (30) days thereafter to answer thereto, and the plaintiffs ten (10) days thereafter in which to reply.

This stipulation is made subject to the approval of the Trial Court. Manila, P. I., February 23, 1907.

(Sgd.)

BISHOP & O'BRIEN.

Agreed:

(Sgd.)

LEDESMA & SUMULONG.

M. LEGASPI FLORENDO.

169

UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance of the City of Manila.

SY JOC LIENG, SY YOC CHAY, SY JUINIU, and SY CHUANIU, Plaintiffs,  
vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA, JUAN SY QUIA and GENEROSO MENDOZA SY QUIA, Defendants.

*Stipulation.*

It is hereby agreed and stipulated by and between Bishop & O'Brien, attorneys for plaintiffs in the above entitled action, and

M. Legaspi Florendo, attorney for Generoso M. Sy Quia, Rosado, Saenz & Opisso, attorneys for Pedro Sy Quia, Juan Sy Quia and the administrator of the estate of Petronila Encarnacion, deceased, and Ledesma, Sumulong & Quintos, attorneys for Gregorio Sy Quia, that the Hon. A. S. Crossfield is requested to issue a commission in the above entitled action, authorizing the Hon. American consul, Vice-consul or consular agent of the United States in Amoy, China, to take the deposition of the following named witnesses on behalf of the plaintiffs in the above entitled action.

Sy-Leng, Sy-Jon-Goan, Su-Kong-Leng, Sy-Bo-An, Sy-Kai-Tit, Syne-Heng-Peng, Yap-Si-Tan, Yap-Chong, Tan-Si-Sy, Yap-Si-Sy, Kim-Hock-Hin y Liung-Bi and others.

170 The taking of such depositions to commence on the 27th day of August, 1906, at 8 o'clock a. m., and to be continued from day to day until completed. The said deposition to be taken in the English language, and the said Hon. Consul, Vice-consul or consular agent is authorized to designate and swear a competent interpreter in case the witnesses produced are unable to testify in the English language. The depositions are to be taken orally and without written interrogatories, and in case any of the witnesses are unable to personally appear in the consulate, the officer taking such depositions is authorized to take the depositions of such witnesses at their place of residence. Said depositions are to be taken, certified and returned as provided for by section 362 of the Code of Civil Procedure, all parties hereto waiving a formal application as provided for in the taking of depositions out of the Philippine Islands.

It is further stipulated and agreed that, in case the defendants wish to take the deposition of any witness or witnesses in the Province of Amoy, that they are hereby authorized to take the same under the terms of this stipulation, the said plaintiffs waiving all notice as to a formal application as provided for by law.

Dated Manila, this 8th day of August, 1906.

\_\_\_\_\_  
*Attorneys for Plaintiffs.*

\_\_\_\_\_  
*Attorney for Generoso M. Sy Quia.*

\_\_\_\_\_  
*Attorneys for Pedro Sy Quia, Juan Sy Quia and the Administrator of the Estate of Petronila Encarnacion, Deceased.*

\_\_\_\_\_  
*Attorneys for Gregorio Sy Quia.*

171

(Heading Omitted.)

*Commission.*

To the Honorable Consul, Vice-consul or Consular Agent of the United States at Amoy, or to any one of the said officials, Greeting:

Reposing confidence in your fidelity and ability, the Court of First Instance of the City of Manila does by these presents authorize you to take and certify the deposition of all witnesses that may be produced by either plaintiffs or defendants in the above entitled action under the stipulation hereto attached, which is made a part of this commission, and you are also authorized to take and certify the deposition of any other witnesses who may be produced before you upon the written stipulation of the attorneys appearing before you.

And it is further requested by this Court that the taking of such depositions be commenced at 8 o'clock a. m. on the 27th day of August, 1906, and be continued from day to day until completed. But if for any reasons your duties will not permit the taking of such depositions at said time, you are requested to fix a day and hour, of which you will notify the attorneys for plaintiffs and defendants. After the taking of such depositions you sign, certify and return the same to this Court, as provided for by section 362 of the Code of Civil Procedure of the Philippine Islands.

172 In witness whereof I have hereunto subscribed my name and caused the same to be signed and sealed by the clerk of this Court.

Manila, P. I., Aug. 20, 1906.

[COURT SEAL.]

(Sgd.)

A. S. CROSSFIELD,

*Judge of the Court of First  
Instance of the City of Manila.*

(Heading Omitted.)

*Deposition.*

Taken before the Hon. Rea Hanna, American Vice-Consul, at Amoy, China, under and by virtue of that certain Commission, issued to him by the Court of First Instance for the City of Manila, dated August 20, 1906, and which is hereto attached, and made a part hereof.

*Appearances.*

William H. Bishop for Plaintiffs.

Antonio M. Opisso, Juan Sumulong, for Defendants.

Mrs. A. A. F. Mackinnon, Stenographer.

*Index.*

Witness.	Direct Exam.	Cross Exam.	Re-Direct Exam.	Re-Cross Exam.
Li Ung Bing.	001-013	013-024	024-028	
173 Sy Peng.....	029-103	103-132	132-140	141-144
Lim Chic...	148-167	167-178	178-180	
Yap Si Tan.....	183-199	199-212	212-213	
Yap Chia .....	216-234	234-248	248-249	
Sy Kai Tit.....	252-274	274-289		
Yap Chong.....	293-306	306-316	316-317	
Yap Boan.....	320-340	340-351	351-	
Sy Kong Leng.....	355-381 & 382	381 & 383-392	392-393	
Sy Jong Oan.....	396-414	414-423	423-425	425-

First Session in the taking of this Deposition was begun at 9:30 A. M., September 4th, 1906.

*Stipulation.*

It is here-by stipulated by and between the attorneys for Plaintiffs and Defendants that in addition to the witnesses named in the Stipulation and Commission, the Plaintiff may call the following Witnesses:

Sy Hong Koh.

Lim Chio.

Yap Chia.

Ang Kai Pho.

and the first named witness Sy Leng under his correct name Sy Peng.

Plaintiff calls as his first witness Mr. LI UNG BING, who being first duly sworn to testify the truth the whole truth and nothing  
174 but the truth, testified as follows:—

Direct examination by Mr. BISHOP:

Question. What is your name?

Answer. Li Ung Bing.

Q. Where do you live?

A. Kulangsu, Amoy, China.

Q. What is your occupation?

A. Interpreter at the United States Consulate, Amoy, China.

Q. How old are you?

A. Thirty.

Q. How long have you been official Interpreter at the American Consulate?

A. Since February, 1898.

Q. Through whom do you hold your appointment as such Interpreter?

A. The President of the United States of America.

Q. Before you held your present position what was your occupation and where?

A. Interpreter to the German Consulate at Foochow, and Instructor in the Anglo-Chinese College Foochow.

Q. What languages do you read, write, and speak?

A. The English and the Chinese. That is the Mandarin or the Pekingese, the Foochow and the Amoy Dialects.

Q. What dialect is generally spoken by the Chinese in Amoy and Fuhkien Province?

A. In Amoy it is Amoy Dialect, in other parts of Fuhkien, Foochow and Mandarin.

Q. Do you understand the Fuhkien Dialect?

175 A. Foochow being the Capital it is held that the Foochow Dialect is the Fuhkien dialect, but Fuhkien Dialect as is known abroad by Chinese from this Province means the Amoy dialect.

Q. What have been your educational advantages? State Schools and length of time of your studies.

A. I studied Chinese ten years with private Teachers, and English four years in the Anglo-Chinese College Foochow.

Q. Have you ever studied Chinese Law? If so where and for how long?

A. I studied Chinese Law for three years. In Foochow.

Q. State in a general way the subjects covered in your Law Courts.

A. It covers all administrative Acts of China. All Phases of Official life, Civil and Criminal Law of China, Methods of Post Mortem Examination.

Q. State whether or not your studies included the Laws of Marriage, descent and distribution.

A. Yes.

Q. Are you a graduate of any College, if so of what College and when?

A. Yes, Anglo Chinese College of Foochow. Class 1896.

Q. What is the standing of that College in China?

(Objection by Defendants: The Defendants object to the question being impertinent and immaterial.)

Witness answers. It is considered one of the best.

Q. At the close of your studies did you take part in any special examination? If so, state the number of Contestants and the Result?

176 (The Question is objected to by the Defendants, not calling for the best evidence as regards the taking and passing an Examination.)

Witness answers. Yes. I obtained the Licentiate degree from the Chinese Government in 1896, after competitive Examinations lasting six weeks, the number of Contestants being in round numbers 2,200 of whom only 36 were successful.

Q. State whether or not you were one of the 36.

A. I was.



Q. What is the usual course of study which a person takes in China to prepare himself as one skilled in the Chinese Law?

A. Concisely just as what I have done.

Q. Since you left College and took your degree have you had any occasion to continue the study of Chinese Law? If so state fully.

A. Yes. By reason of my present position.

Q. Anything before your present position?

A. Yes, by my former position as Interpreter to the German Consulate at Foochow.

Q. Other than you have stated is there any provision in the Chinese law by which a person may become a Licensed Lawyer in China?

A. No; License is never given out in China for a lawyer, and to say the truth a Professional Lawyer has no Social standing in China.

Q. What is the primary object, or, purpose of the study of Law in China?

A. The Statutes require that the knowledge to become a civil Official under the Imperial Dynasty a man must possess an adequate knowledge of Law.

Q. What are your duties as Official Interpreter at the American Consulate?

A. Besides making translations, act as adviser to the Consul in all Chinese matters.

Q. Do you consider yourself competent and qualified to give an opinion as to the Laws of China and as to the rights and duties of the subjects of the Chinese Emperor?

(Objected to by Defendants, the question not calling for the best evidence, nor for the qualification of the Witness.)

Witness answers. Yes, by reason of my studies and the various positions I have held.

Q. Are the Laws of China written or unwritten?

A. Partly written and partly unwritten.

Q. What is the source, or by what Authority are the written Laws made?

A. By the Throne of China.

Q. What is the source, or the origin, of the unwritten Law?

A. They are as a rule the result of Confucius' teachings, as well as the teachings of other ancient Sages in China.

Q. How can the unwritten Laws be Changed, amended, or repealed?

A. By official decrees.

Q. By what Authority or Official?

A. By Authority of the Emperor of China.

Q. Are there any laws in China in reference to Marriage?

A. Yes there are.

Q. Are such Laws written or unwritten?

A. Both.

Q. State or explain the Marriage ceremony in China. Giving all customs surrounding the same.

(Objected to by Defendants Since there is no foundation for the question, and furthermore, for the reason that the Witness has stated that the Laws about marriage are both written and unwritten and therefore is not correct for the best evidence.)

(ATTORNEY FOR PLAINTIFF: I will add to my question; also state what part of the marriage ceremony is under the written Law and what part under the unwritten Law?

Witness answers. To begin with the Laws of China are all negatives, the equivalent of Legal Marriage, as used in the Statutes of China, is a Phrase consisting of four Chinese Characters, namely: "Min meu chen ch'u," literally meaning "Publically mediated and rightly married." In China the Boy and the Girl, irrespective of their ages, are not competent to marry themselves they must be married by a competent Authority of their respective families; in other words the Heads of such Families, and all arrangements must be made through certain mediators. The business of the mediator is to give the history, circumstances, wishes, of the two families to one another; also to arrange about the presents to be given by the future groom to the Bride, and to see that the Marriage letters are properly exchanged between the Heads of the two families. When the presents are made and accepted, and the Marriage Letters exchanged, the tie is considered to have been made under the law so to speak. Then a day is to be named

for the Marriage ceremony to take place which always  
179 takes place at the Home of the Groom. On the day named he is to send a red Chair carried by four Coolies to the house of the girl, with Representatives to receive her. On her arrival at the house, the Couple must worship first the Heavens, then the Earth, then the Tablets of the Ancestors of the Family, in other words they are thus married before Heaven, the Earth and the Ancestors of the Family. This occasion is generally celebrated by a public feast to which Relatives and friends of the House are invited. Then a day is named for the Groom to accompany the Bride to her Mother's house and there be received by the Relatives of the Girl's family, and there to worship the Tablets of the Girl's ancestors. A feast is likewise given by the girl's house to celebrate the occasion.

Q. Are any investigations made as to the Marital Status of the two parties before the marriage, if so by whom?

A. By the Heads of the two Families and the Mediators, and the Law requires that the Mediators shall give information whether the parties to be married are personally deformed or whether they are the "Natural-born" son or daughter, as the case may be, of a wife, or a Concubine.

Q. Is there any Official record or other record of Marriages in China?

A. No Official Record is kept under the present Dynasty. There are Family Records.

Q. How far back does the present Dynasty go?

A. In round numbers about 280 years.

Q. What Family Record is kept and where?

A. The Marriage Letters as I have stated, and after the death there are Tablets, and Grave Records which all bear  
180 evidence to the marriage or Family Relations of the deceased.

Q. Where are the Tablets kept? And by whom prepared?

A. They are kept in the Family temple, and prepared by the Descendants in the presence of all Relatives and Friends of the Family immediately after the death of a parent.

Q. Where is the Grave-Record kept and by whom prepared?

A. The Grave-Record is kept inside of the Grave, and is prepared by a man of high Social standing chosen by the Family for the purpose in the presence of Friends and relatives of the Family, this Record may be written or engraved on some stone which is buried beneath the coffin in the grave.

Q. If a person dies out of China when is the Grave Record made?

A. No Record is made in China at all if a man dies out of China.

Q. Are marriages as performed as stated and described by you held and considered to be legal by the Courts, Officials and Rulers of China and are such marriages held to be Legal and binding?

(Objected to by the Defendants, for the question is incompetent for the Witness to answer.)

Witness answers. Yes.

Q. Are the Tablets and Grave-Records, about which you have testified, considered as proof, or evidence, of marriage by the Courts, Officials and Rulers of China?

(Objected to by the Defendants on the same ground as the former question, to-wit, that the Witness is incompetent to answer the question.)

181 Witness answers. Yes.

Q. If the Family Marriage letters, list of presents and so forth are lost, or destroyed, what degree of proof would these Tablets and Grave Records, if fully identified, be considered by the Courts, Officials and Rulers of China?

(Objected to by the Defendants the question being immaterial, incompetent, and irrelevant.

Witness answers. They are considered as conclusive evidence, provided they are fully identified and supported by the Testimonies of Witnesses.

Morning session begun at ten a. m. is now adjourned until two p. m. today. 12/m.

Afternoon Session, 2 p. m.

Direct examination of Mr. LI UNG BING continued:

Q. Has Amoy a number of villages within its jurisdiction?

A. Yes.

Q. How is the Government of those villages conducted? I mean the local Government of the villages?

(Objected to by the Defendants on the ground that the question is immaterial, and further-more on the ground that  
182 the Witness is incompetent to testify as to this point.)

Witness answers. They are generally governed through Elders.

Q. Who are the Elders of a village, and what are their general duties?

(Objected to by Defendant on the ground of immateriality, and on the ground that it has not been proven that there is no better evidence as regards this point.)

ATTORNEY FOR PLAINTIFF: Add to my question also as to whether or not such Village Government is under written or unwritten Law.

(Defendants renew their objection on the ground that the question is leading and immaterial.)

Witness answers. The Elders of a village are generally the old and intelligent men of the village, who are best informed as to the local conditions, and whose duties are to settle disputes, quarrels among their Clansmen, or relations, this arrangement is under unwritten Law.

Q. Do you know the village of Am Thau, Amoy?

A. Yes.

Q. How is that village governed?

(Defendants object to the latter part of the Question on the ground that the Witness has not Proven himself to be qualified to answer to it.)

Witness answers. Precisely like other villages.

Q. Under the laws of China, How many wives can a man have?

A. Only one.

183 Q. Is the system of Concubinage recognized under the laws?

A. Yes it is.

Q. Describe that system and especially the family relation and standing between a wife and a Concubine.

A. Under the law the word wife or "Chi" is defined as meaning "exactly equal" or "other half," and the word Concubine or "Ch'ih", as meaning "to receive", or "be received", so a wife, under the Chinese Law, shares all rights, privileges, prerogatives and so forth in the family, among the Community, and in Official relations to the Government, while a Concubine does not, and is a woman received into the family; her relation to the wife is somewhat similar to that of a house-maid to her mistress, she is not married through the same ceremonies as the wife is, and no girl to be married as a Concubine has a right to sit in a red chair carried by four Coolies on her wedding day.

Q. Can a married man take a Concubine without the consent of his wife, and the Elders of his family?

A. No, legally not.

Q. Is polygamy permitted under the laws of China?

A. In the form of Concubinage. That is, he can have one wife and as many Concubines as he can afford to support.

Q. Are the Concubines recognized as legal wives?

A. They are not as I have stated.

Q. Under the laws of China who are recognized as the heirs of a man on his death?

A. Do you mean as to official rank or to property, because the laws on the two points are entirely different?

184 Q. First, briefly, as to Official Rank, Second, fully, as to Property.

(Defendants object to any question made to the Witness provided it is not ascertained and shown properly that no written Law exists as regards the point involved in the question.)

ATTORNEY FOR THE PLAINTIFF: Also state whether the same is under written or unwritten laws and if partly under one and partly under the other distinguish in your answer.

A. Under the written Laws of China only sons or male——

(Defendants object to the answer of the Witness and the Question to him on the ground that it is not the best evidence that can be produced, and move to have both question and answer stricken out from the record.)

Witness continues answer.

Descendants of the legal wife are considered heirs to Official Rank, but as regards Property, sons of the Concubines are considered legally as sons of the wife, provided the Concubine was married with the consent of the wife, and they shall have their rights to the property, but such rights are considered after the right of the sons of the legal wife.

Q. Is this matter of property-rights under a written or unwritten Law.

A. Under the written Law.

Q. Can you furnish as a part of your testimony a translation of the written Laws of China in reference to the Property-Rights of the wife, Concubine and descendants of a Chinese subject dying in China also the Laws of China as to such property-Rights where the subject dies in a Foreign Country?

185 A. I can refer you to the statutes but will not have time to make a translation. But there are no provisions for a Chinese subject dying abroad.

Q. Can you give a reference to those Statutes if so, do so.

A. They are to be found among the Revenue-Laws of China. I forget the number of the warrant just now.

Q. Will you look up the Volume or Volumes so that you may give the exact citation.

A. Yes.

Q. Do the laws of China provide for a system of adoption?

A. Yes.

Q. Are those Laws written or unwritten?

A. Written.

Q. Can you give us the citation or reference as to where those laws can be found?

A. Yes. They are among the Revenue Laws.

Q. Can you state the exact reference from memory?

A. I have forgotten the number of the Volume.

Q. Will you look up the exact citation and give us the reference?

A. Yes.

Q. You stated that part of the Law in reference to marriage was written and of a negative nature, will you look up the citation or reference and furnish the same to us?

A. I will do it.

Q. Under the laws of China if a person has a husband or wife can they marry again?

186 (Defendants object to the question same being incompetent.)

Witness answers. No, until the death of the wife or husband as the case may be. And especially provides that when a man has a wife and marries another wife he shall receive ninety heavy blows of the bamboo, and the second wife shall be separated from the husband. This is in Chapter 3 Vol. 10 Statutes Chinese Empire. Tai Ching Dynasty.

(Defendants move that the preceding question and answer to be stricken out of the Record on the ground of incompetence.)

Q. If the Head of the Family could be assured that the Tablets which are kept in the temple and the Grave-Records would be returned, would there be any objection to taking them into a Foreign Jurisdiction to be used as evidence in a serious civil case affecting the property and Property-Rights of the family?

A. I cannot answer that question from a legal standpoint but personally I do not think an Elder would permit it; the tablets and Grave Records being regarded as sacred in China.

(Defendants move that the last part of the answer be stricken out it being nothing else than the witness' mere personal opinion.)

Q. In case an attempt was made to take the Tablets and Grave Records of a Family into a Foreign Jurisdiction and there was an objection on the part of the Elders of the village or Family, would a Chinese Court restrain the taking of such Tablets and Grave Records out of his Jurisdiction?

187 (Defendants object to the question on the ground that the Witness by his own testimony has proven himself to be incompetent to testify as regards to anything pertaining to these points.)

Witness answers. There is no provision of law by which a Chinese Court can compel such Elders to do so.

Q. What do you mean by "To do so"?



A. To send the Tablets or Grave Records away from the Family into a Foreign Jurisdiction.

Q. How is an Oath administered in China to a Chinese who is called as a witness before a Chinese or a Consular Court?

(Defendants object to the question on the ground that same is incompetent, irrelevant and immaterial.)

Witness answers. A formal Oath is foreign to the Chinese Law, no witnesses are ever sworn before a Chinese Court, in our American Consular Courts in China witnesses come when Chinese persons are either required to take an Oath according to the Form prescribed by the American Minister to China or are merely cautioned.

Q. What do you mean by "cautioned"?

A. They are cautioned by the Judge to speak the truth and the Judge chooses his own form and own words.

ATTORNEY FOR PLAINTIFF: This completes our direct examination, except we will recall the witness later to give the references and citations to the Chinese Statutes which he had referred to in his testimony.

188 Cross-examination by ANTONIO M. OFISSO and JUAN SUMULONG:

Q. In what part of China were you born?

A. In Foochow, China.

Q. Did you reside in Foochow until when?

A. Until the time I came down here, that is, February 1898.

Q. At what age did you begin your studies?

A. In my sixth Year.

Q. That was the primary course that you took then?

A. Yes.

Q. And I understand that it was in private instruction that you received?

A. Yes. The private instruction is the best instruction that I have ever received.

Q. At what age did you enter the Anglo-Chinese College?

A. When I was sixteen years old.

Q. How did you come to Amoy Kulangsu?

A. I came down here to join the American Consular Service.

Q. Have you ever since been working as an employé of the American Consulate.

A. Yes.

Q. Have you ever resided in Amoy itself? I mean outside of Kulangsu?

A. Yes for three months.

Q. When was that?

A. That was when I first came down here.

Q. Ever since your residence has been in Kulangsu, and not in Amoy properly?

A. Yes. Kulangsu is also part of Amoy.

189 Q. Are there any Laws that are for a certain part of China only?

A. All written Laws cover the whole Country.

Q. How about the unwritten Laws. Do they differ in the several parts of China?

A. They do in details but not in principle.

Q. Is there a written marriage law applicable to all China?

A. All the written marriage laws are applicable to all over China.

Q. What is the Marriage law in its greater part? Is it written or unwritten?

A. Written.

Q. What you told me this morning here in your direct examination was it part of the written or unwritten? What did you mean by those negative laws?

A. I mean by it the wording of the law, it does not tell a man what he ought to do but what he shall not do, or else he shall be punished accordingly.

Q. Is that written or unwritten?

A. It is written.

Q. How about the mediator to which you referred this morning? Is the law in regard to him written or unwritten?

A. The law requires that marriage arrangements must be made through the mediator, but aside from that the law says nothing about the Mediator's qualifications.

Q. You told us this morning that the Heads of the families entered into the Marriage Contract through the Mediator and that after the Marriage Letters had been Crossed and the presents sent from one family to the other, and vice versa, that the Groom then took the Bride to his house and then the Bride took the Groom to her house, going practically through the same ceremony in the first as well as in the second instance, can you tell us when is the marriage contract perfected or in other words when is the couple said to be married?

A. When the ceremony at the house of the Groom is done.

Q. You have referred to the marriage Letters crossed between the two families, would you kindly tell us what do those letters usually contain, and by whom are signed and if the law regarding the same is written or unwritten?

A. The law makes references to such letters but does not prescribe the form, this is a very ancient custom, dating back to more than 3000 years ago and the forms have been varied at different times, and are different in different places in China at the present day however, the principal features are the same, it contains that the "competent Authority" of one Family, or the Head, is willing to betroth the son or daughter to the other family, to be the husband or wife of the son or daughter of the latter family as the case may be, giving the names of the parties and their respective ages. As a rule such letters are couched in most humble phrases one can find in the Chinese language.

Q. Are those letters signed? If so by whom, and when?

A. The question of signature is never raised in Chinese Law, not only these letters are signed through a third person but all State papers in China are signed through a third person. On the day the

letter is written every thing is done before the Tablet of the Ancestors, and friends and relatives of the Family.

191 Q. Who is that third person?

A. I will not say that he signs it but he writes the letter, as no signature is required by the law. That third person in this case is a friend of the family chosen for the occasion and one who is considered to bring Luck to the Marriage.

Adjourned till 9:30 A. M. September 5th, 1906.

Morning Session, 9:30 a. m., September 5, 1906.

Cross-examination of Mr. LI UNG BING continued.

Q. If two Marriage letters regarding two definite persons were presented to you could you determine that those letters were the genuine letters written by the two families? And if so how could you determine it?

A. I would naturally have to examine witnesses and look into the circumstances before I can arrive at any decision at all.

Q. What circumstances would you require to examine and look upon before arriving at a conclusion as regards the circumstances or Authenticity of a Marriage Letter?

A. I would have to examine the Mediators, Principal parties, Heads of the Families, the man, or men, who wrote such letters and such other witnesses as may be available.

Q. Suppose that either the Mediator or the Principal parties or the Heads of the Families or the principal witnesses that is to say the persons who either wrote the letter or who were present  
192 at the writing of the same, had all disappeared could you still arrive at any conclusion regarding the authenticity of those Marriage letters?

A. In other words the question is this: Could I or would I legally pass an opinion on the genuineness of such letters alone, to this I will answer I cannot, and would not pass any opinion on it, for lack of evidence.

Q. You said yesterday that the husband cannot have Consurbines or Second wives without the permission or consent of the first wife is this prohibition consigned in any written law?

To which Plaintiff objects for the reason that Counsel assumes that the witness testified that a man could have a second wife, which is not in accordance with the testimony of the Witness.

DEFENDANT: The witness in his direct testimony stated that legally a man could not have more than one wife and did not state anything else regarding this point.

ATTORNEY FOR PLAINTIFF: Objection withdrawn.

Witness answers. I quoted the law yesterday that forbids a man to marry a second wife while his first wife is still alive, as to the question of Concubines I testified that a man could have as many Consurbines as he could afford to support, and that the relation a

Concubine bears to the legal wife is somewhat similar to that of a house-maid to her mistress. The man who marries a Concubine under the law is not her husband, but her master, this appears in the first volume of the statutes, known as the "Morning Laws" of China, which describe fully all family relationships of a Chinese subject.

193 The Attornies for the Defendants move that all that the witness has testified to regarding the fact that the man can only have one wife be stricken out from the record for the reason that it is not the best evidence since there is a law, a written law, bearing on this point.

The Attorney for Plaintiff objects to the motion for the reason that the question appears to be proper Cross-examination, and that the answer is responsive to the question.

The Defendants state that their motion is not confined to the answer given by the witness to the preceding question but also to what the witness stated yesterday in his direct examination, the preceding question had for its only object to find out whether the law regarding this point was written or unwritten and finding that the law is a written one we make the motion to strike out all testimony pertaining to the fact now under discussion, we renew the motion.

Q. How can the dissolution of a marriage, if there be any under the laws of China, be made to appear? Is there any document or instrument of any kind drawn at the time of granting a divorce, or in any wise dissolving a marriage.

A. No divorce can be effected without going into Court and necessarily there will be papers issued by the Court on the subject.

Q. Are there any other means of dissolving marriage besides the divorce?

A. No.

Q. What effect would the absence of the husband to a foreign Country, thereby abandoning his wife for more than forty years, have under the law of China, either written or unwritten, if

194 there be any?

A. Before answering this question I would like to know whether you mean the husband's absence from his wife in a foreign Country before he has been properly married to the woman who is his wife or before that ceremony is done?

Q. In both cases.

A. If the husband absents himself more than five years after the marriage contract is entered to, but before the marriage is legally consummated, the contract will be considered not binding if the girl who was to be his wife, or the Head of her Family, chooses to marry her to another man. After the marriage has been legally consummated the absence of the husband in a foreign country will make no difference whatsoever no matter how long such absence may be.

Q. Is it permitted under the laws of China that a husband should abandon his wife by going into a foreign country without ever providing for her support and maintenance or in any way fulfilling his duties and obligations towards the woman who is his wife?

A. No. There would be punishment for the husband if his wife brings an action, but it would make no difference to their relationship as man and wife.

Q. Can you tell us what the punishment for the husband thus absenting himself would be?

A. The punishment is left entirely to the Court which deals with such cases and the punishments have been different under different circumstances as it will be seen by reference to Judicial decisions which have heretofore been made by Chinese Courts.

195 Q. Could you tell us in general terms what that punishment would consist of?

A. It consists of bambooing.

Q. If a man should marry another woman without the consent of his first wife is there any punishment provided by the law.

A. There is none when this other woman is taken as a Concubine but if as a wife there is, and the punishment is what I quoted yesterday from Chapter 3 volume 10, namely ninety blows of the heavy bamboo and separation of the second marriage.

Q. Suppose that a Chinese subject here in China wishes to marry a foreign woman also residing in China and not being able to take her as a Concubine marries her with the ceremonies of the woman's creed and nationality, all this without the consent of his Chinese wife is there any punishment for such a husband doing so?

A. The law is plain enough as I quoted yesterday, the second woman must be a Concubine or be separated as the law requires and the husband receive the punishment as is provided for.

Q. When both husband and wife die as well, as the head of their former respective families, who takes charge of the Tablets, marriage letters, wedding presents, Bridal Chair and so forth, of the husband and the wife?

A. The tablets are taken charge of by the heirs, that is by the sons or grandsons. The Bridal Chair is always a hired one for the occasion and after the day all trace of it is lost. Letters and presents are supposed to be in the family.

196 Q. To whose family and to what members of the family do you refer?

A. To the Head of the Family for the time being.

Q. When you spoke yesterday about cautioning the witnesses in this Consulate is that manner of cautioning a manner prescribed by some statute of the United States, or is it only a mere rule of this Consulate?

A. The manner of cautioning, so far as I know, is not prescribed by any statutes; the rule for our Consular Court in China says when a witness is not a Christian the Oath shall be administered to him according to his Faith. As the taking of an Oath of a witness has never been done in China by Chinese Court nor has it been prescribed by Chinese Law, the practice here-to-fore in the United States Consular Court at Amoy has been to require the Chinese witness to first take an American Oath and then be cautioned.

Q. What is kept in the Family Temple?

A. The Tablets.

Q. Is a marriage also recorded in the Family Temple?

A. It is not, but the Tablet is a conclusive evidence as to the Relation of the woman to the husband, there can be no mistake on that point, as the "Mourning law" is the most definite and particular.

Q. Is it not the fact that these Family Temples are considered as Sacred Family relics and they are taken care of, well preserved, and kept?

A. Yes.

197 Q. You told us yesterday that the laws of China regarding marriage were negative; is it not the fact that by that you meant the wording of the law was prohibital and that for every prohibition there is a penalty attached to it?

A. Yes.

Q. Is not that law comprised in one of the 6 branches of what could be considered the Chinese Penal laws?

A. Yes, it is.

Q. What is the status of a daughter, and what are her rights in the inheritance and distribution of the Father's estate?

A. A daughter, as a rule, in China is a transient member of the family. When there are no male heirs the property goes to her, otherwise her share is confined to a dowry.

Q. What share would a daughter have when she is the only child of the husband with his first wife, but having a brother by her Father with one of his Concubines?

A. If that brother is made the heir her share is confined to a dowry.

Q. Therefore the son had by a concubine can be made an heir over the daughter had by the first wife, is that not so?

A. Yes.

Q. What status would have an adopted son coming in to the distribution of the property together with a real born son of the deceased?

A. If qualified and properly adopted he shall have equal shares with other brothers than the legal heir.

Q. Are there any requisites prescribed by law for the adoption of a child, and if so, will you kindly tell us what those requisites are and how a Child would legally be considered properly adopted.

A. In the direct examination yesterday I was requested to look up certain references.

Plaintiff suggests that that answer is not responsive to the question.

Q. Therefore from your answer I see that the law regarding the adoption of Children is an express written law; is that so?

A. Yes.

Q. In what manner and under what circumstances would a Chinese subject lose his citizenship under the laws of China?

A. Under the statutes he can never lose his citizenship. He may be a rebel, but the law claims jurisdiction over him just the same.

Q. Even in case of leaving the Chinese territory without intention



of returning and taking up his residence in a foreign country and becoming a citizen for all purposes under the laws of that country.

A. The change of the citizenship by a Chinese subject is entirely governed by Treaty stipulations China has made with Foreign Powers, rather than by the written statutes of China.

Adjourned until 9:30 a. m. September 6th, 1906.

199 Morning Session, 9:30 a. m. September 6th, 1906.

All parties appearing as here-to-fore.

Cross-examination closed.

Redirect examination by Mr. BISHOP:

Q. Continuing my examination of the day before yesterday— You were asked to look up a number of citations and references as to the statutes of China, that is, as to where certain written laws were to be found. Can you now give such citations and references, if so, please do so.

A. Yes. System of Adoption. Capter 4, vol. 8. Statutes Tai Ching Dynasty. Distribution. Chapter 14, same volume. Wife and Concubine. Chapter 3, Volume 10, also volume 1. Mourning Laws, and also the Imperial Decree 19th year of Ka Ching on this subject.

Q. Now on Re-direct. Can a subject of China divorce his wife at will?

A. No.

Q. If a subject of China abandons his wife and goes to a foreign country and there marries is that a divorce or an annulment of the marriage with the wife in China?

Defendants object to this question for it is not and does not call for the best evidence; the best evidence being the written Law on the subject.

Witness answers. No. I again refer to Chapter 3, Vol. 10.

Q. The letters or contract of marriage which are exchanged by the Heads of the two Families have what legal significance in  
200 reference to the marriage.

Defendants object to the question on the same ground as the preceding one.

Witness answers. They contain a promise to marry or a betrothal, but bear no evidence as to whether the marriage has been consummated.

Q. If a subject of China marries a second time while the first marriage still exists does that work an annulment of the first marriage?

Defendants object to the question in the first place because it is a mere repetition of a former one, and in the second place on the ground on which the two preceding questions have been objected to.

Witness answers. It does not.

Q. Who should have the custody of the marriage letters, or letters of betrothal, the husband or the wife?

Defendants object to the question because it is leading.  
Question withdrawn.

Q. Who should have the custody of the letters of betrothal, or marriage contract to which you have referred?

Defendant- object to the question because the witness has already fully answered to the same both in his direct and his cross-examination.

Witness answers. The husband of the one from his wife's Family, and the Head of the wife's Family, for the time being, of the other.

Q. How is the son of the Concubine recognized as an heir?

201 Defendants object to the question because it does not call for the best evidence, the best evidence being the written Law; and furthermore because the witness has already testified as regards this point.

Witness answers. He is recognized as an heir as the son of the wife and husband.

Q. How is that recognition made?

Defendants object to the question because there is a written law and that would be the best evidence and not the witness' testimony regarding the point.

Witness answers. Under the Law a son of the Concubine is required to respect the wife as his mother, and, upon her death, he is to perform all the duties as if he were the natural-born son of the wife. I can refer to the Mourning Laws.

Q. If a Married man marries another woman and has children by her, and such children do not recognize the first, or legal wife, as their mother and respect her as that, would the law and the family recognize such children as heirs?

Defendants object to the question for it does not call for the best evidence, there is a written Law on the subject and such written Laws are the only evidence admitted by Law.

Witness answers. When such children refuse to recognize the wife as their Mother, or, in other words, they maintain the status of their own Mother as a wife instead of a Concubine, the law requires that the woman of the second marriage, or their own Mother, should be separated from the husband and it follows therefore that

202 such children are illegitimate and as such they cannot be recognized as heirs.

Q. In testifying as to an adopted son you used the expression "if properly adopted," what did you mean by this, explain in full?

A. I mean by "properly adopted" that in being adopted all requirements of the law as contained in Chapter 4, Vol. 8 have been carefully observed.

Q. What are the general requirements of the Law as to adoption?

Defendants object to the question because the same is incompetent irrelevant and immaterial.

Witness answers. The Law requires that preparatory to adoption the selection has first of all been made from amongst the male descendants of the nearest Clansman, and so on, according to their degree of blood relationship, and it further provides that certain means of adoption cannot be recognized as legal and binding and these can be best ascertained from the book.

ATTORNEY FOR PLAINTIFF: That is all.

DEFENDANTS: That is all.

Witness is instructed to read his testimony and be prepared to sign the same tomorrow morning with any corrections or changes, subject of course to Cross-examination, as to any changes, this by agreement of Counsel.

After the foregoing declaration had been read to the Witness by Mrs. A. A. F. MacKinnon, the Party inscribing this Deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, he stated that he  
203 approved the same and *and* that the same was correct, and signed it.

(Sgd.)

LI UNG BING.

I, Rea Hanna, Vice-Consul of the United States of America at Amoy, in China, certify that the preceding is the Deposition given before me on the 4th, 5th, and 6th of September 1906 by the Witness Li Ung Bing, who before giving his testimony took the prescribed Oath to tell the truth, and after having his testimony read to him and having been informed of his right to correct it in any particular if he desired, signed it on finding it to be correct. I also certify that this Deposition has been written in my presence and under my direction by Mrs. A. A. F. Mackinnon a disinterested person and that the same is a faithful expression of the testimony of the Witness. I also certify that the Witness after subscribing the same, took Oath that the Deposition subscribed by him contained the Truth, the whole Truth, and nothing but the Truth. In witness whereof, I have hereunto subscribed my hand and affixed my Official Seal of this Consulate in Amoy, China on this 10th day of September 1906.

[CONSULAR SEAL.]

(Sgd.)

REA HANNA,

*Vice-Consul.*

Mr. Bishop calls as Witness Sy PENO, and asks that an Interpreter be sworn as this witness does not understand the English language.

Mr. Li Ung Bing sworn as Interpreter as follows:—

You do solemnly swear that you will faithfully discharge all the duties incumbent upon you as Interpreter in the matter of the taking of these depositions at the Consulate of The United States of America at Amoy, in China, to the best of your ability so help you God.

The above Oath administered by Mr. Rea Hanna, American Vice-Consul, to Mr. Li Ung Bing.

Mr. Opisso & Mr. Sumulong request that in addition to the Oath

administered according to the rule of this Consulate to the  
204 Witnesses for the Plaintiff they also be sworn in the Chinese way on the head of a White Rooster cut by the witness himself at the time of giving his testimony.

Mr. Bishop asks that the witness be sworn according to the laws governing this Consulate and the laws of the Philippine Islands, which are identical, and objects to the burlesque and humiliation of the Witness by asking him to do that which is unknown to the laws of the United States, the Philippine Islands, or China, hence we request that the usual Oath be administered to the Witness through the Interpreter.

The Vice-Consul Mr. Rea Hanna states that he is not authorized to administer any other Oath to the Witness than the following:—

You do solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God.

Defendants except to the foregoing Ruling of the Vice-Consul reserving all their rights to contest the validity of the Oath so administered to a non-Christian Witness and to assert in due time the inefficiency of such an Oath to such a witness.

Plaintiff calls as his second Witness Sy Peng, who being first duly sworn as above, testified as follows:—

(SE PENG sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul.)

Direct examination by Mr. BISHOP:

Q. What is your name.

A. Surname Sy, name, Peng. (Chinese characters.)

205 Q. Where do you live.

A. I live at Am Thau. (Chinese characters.)

Q. What is your occupation?

A. I have been hereto-fore going abroad and now I stay at Home.

Q. How old are you?

A. Eighty.

Q. What position, if any, do you hold in the village of Am Thau?

A. I have been elected by the people of this village as Head man.

Q. How many Head men are there in your village?

A. Seven or eight.

Q. Who is the Chief of the Head men of your village?

A. I have been elected by all the people of the village to be Head.

Q. What are your general duties as Head man?

A. There are always local disputes in the village, it is my duty to settle as best as I could.

Q. Where were you born?

A. I was born in Am Thau.

- Q. How long have you lived in Am Thau?
- A. Ever since I was born, excepting the time I was abroad as  
 a Broker in my younger days.
- Q. Do you know the Sy Family?
- A. The whole village is all one family of Sy?
- Q. Did you know Sy Quia? (Chinese characters)
- A. Yes I know Sy Quian.
- Q. When did you first know him?
- 206 A. Ever since we were boys, we have been travelling together and he is my Clansman.
- Q. In what village did you first know Sy Quian?
- A. In the Am Thau village, he lived quite close to my house  
 I saw him coming in and going out.
- Q. How well did you know him as a boy?
- A. Very well, he was only 4 years older than myself and we  
 have been playing together as boys.
- Q. Did you know his Father and Mother?
- A. I did.
- Q. Where did they live?
- A. They lived in the same house as Sy Quian.
- Q. Were you ever in their house.
- A. Yes.
- Q. How many times?
- A. Occasionally, not very many times.
- Q. How far was that house from the house where you lived?
- A. Three houses away, about 50 or 60 steps.
- Q. By what name did you know Sy Quia?
- A. His name was Quian, the younger men call him "Brother  
 Quian" or "Uncle Quian."
- Q. You say he was 4 years older than you?
- A. Yes.
- Q. How long did you and Sy Quia live in the same village as  
 boys?
- A. In fact we had been living together all the time since boys  
 excepting such times as he or myself have been abroad I  
 207 lived in an old house before, but later moved into my new  
 house. Sy Quia also had a new house not far from ours.
- Q. When did Sy Quia first go abroad?
- A. When he was 12 years old.
- Q. Where did he go?
- A. Philippine Islands.
- Q. Where did you next meet him?
- A. When he came home from abroad.
- Q. When he came Home, to what village did he return?
- A. The same village, to his house.
- Q. How old was he when he came back?
- A. About 25 years old.
- Q. Do you know why he came back?
- A. He came Home to marry a wife.
- Q. How long did he stay at the village at that time?

A. About 3 or 4 years and then he went out abroad again.

Q. When did you next see him?

A. Do you mean the 3rd time?

Q. Yes.

A. The 3rd time his Uncle had a boat which was sent here to Amoy with Sy Quian as Super-cargo.

Q. How long did Sy Quia stay that time?

A. Not very long, he went away with that ship.

Q. When did you next see Sy Quia?

A. This is the 4th time I saw him in Manila, I went there myself.

Q. About when was that?

A. Upwards of ten years after he came Home with that  
208 ship as Super-Cargo.

Q. How often did you go to Manila?

A. I was a Broker. I went back and forth twice a year, sometimes three times. This is seldom though.

Q. When in Manila would you meet Sy Quia, I mean the man you have testified about, who first left your village when about 12 years old and later came back to get married?

Defendants object to the question because it is leading.

Witness answers. About upwards of ten years after the time he came back to be married.

Q. How many times did you meet him in Manila?

A. Very frequently. He was not all the time at Luzon, or Manila, when he went to other Provinces I did not see him.

Q. Do you know the name of Town, or province, that he went to from Manila?

A. He went to one Province at a time and another at another I being Broker do not know the language down there.

Morning session begun at 9:30 A. M. Adjourned until 2 P. M.

Continuation of direct examination of Sy Peng by Mr.  
BISHOP:

Question. By what name did you know this man in Manila?

A. He was known as Vicente Ormero Sy Quian-a.

Q. Is the Father and Mother of this man, you refer to as Vicente, living or dead?

A. Father and Mother both dead.

209 Q. Where did they die, in what village?

A. In Am Thau.

Q. Is Vicente Romero Sy Quia living or dead?

Defendants object to the question because the question is a leading one, since the Witness has given a very different name from that called for in the question.

Mr. BISHOP: We expect to show by other Witness the identity of Vicente Romero Sy Quia with the person referred to by the



Witness, and that the difference in the pronunciation of the names is owing to the fact that the English Language, or Alphabet, is different from that of the Chinese, hence a difference or pronunciation of the same words or names.

Witness answers. He is dead.

Q. About when did he die?

A. About ten years ago.

Q. Where?

A. In Manila.

Q. Was Sy Quia married or single?

A. Sy Quian was married in China.

Q. In what village?

A. He married a girl of Lao Boan village, called Yap Puan Nio.

Mr. Bishop asked that the Interpreter state in the record as to whether or not the name Sy Quia interpreted as Sy Quian is not the same except that the witness gives the Quia the nasal sound and as to whether or not the same is not true in reference to the name Pua and puan.

Mr. Opisso and Mr. Sumulong object to any explanation  
210 given by Interpreter as regards the fact whether or not the name as spelled by Plaintiff's Attorney is the same name as given by the Witness and spelled in a different way by the Interpreter himself. This is a question of fact to be decided by the Judge having cognizance and Jurisdiction over the case and by no one else, since it then would be an interference on the province of the Judge.

Interpreter answers. In spelling Chinese names it is most likely that different persons spell the same name different in this present case according to the system used by the Missionaries in representing Chinese sounds a nasal sound is represented by the letter "n" written above the preceding letters, with a mark over it.

Mr. Opisso and Mr. Sumulong move that all the explanations given be stricken out from the Records, they being irrelevant in the case, and further-more beg to state that the name of the man referred to by the Witness, and spelled by the Interpreter, gives a distinct nasal sound whereas the name as given by Plaintiff's Attorney, either in writing, or spoken, have no nasal sound whatever in it.

Q. When was this man married?

A. He came Home to be married when 25 years old.

Q. How do you know he was married?

A. By reason of my relation to him as a Clansman, and the fact that I was present at the Feast and the celebration and "saw the Bride" on her Wedding day.

Q. Where were they married?

A. They were married in the house Sy Quian's Father and Mother lived in.

211 Q. In what village was this in?

A. Am Thau village.

Q. What was the name of the Bride?

A. She was called Puan, surname Yap.

Q. Were you related to Vicente Romero Sy Quia, if so, in what degree?

Defendants object to the question on the ground that it is leading and furthermore because it suggests a very different name from that given by the Witness, assuming that the Witness has given the name which in fact he has not given at all.

Witness answers: We were Christians, we had the same fore-father—the 5th degree from me—that is our Great-great-great-grandfather was the common ancestor of us both.

Q. When Sy Quia—pronounced by the Witness with a nasal sound, married Yap Puan pronounced with a nasal sound, was he married or single?

Defendants object to this question, on the same ground as the foregoing and that we beg to state that our objection be considered as made every time that the Attorney for the Plaintiff assumes that the name Sy Quia is the same as the name Sy Quian as given by the Witness, making his question accordingly.

Witness answers: He was single and Yap Puan was the only wife he married.

Q. How do you know he was single?

A. By reason of my relationship I knew it as a fact that he came Home for the purpose of getting married.

212 Q. Was Yap Puan married or single when she married this man?

A. She was single.

Mr. Orrisono and Mr. Sembrano: That the preceding question and answer be stricken out, for the reason that the witness has not qualified himself to testify as to anything regarding Yap Puan.

Q. After Sy Quia (pronounced with a nasal sound) was married where did he live?

A. In the same house with his Father and Mother.

Q. In what village?

A. Am Thamu.

Q. How long did he remain there after he was married?

A. After he was married a son was born, the second year another son, the following year these Children were taken care of by the Wet-nurse. He left Home to go abroad after the second son was born.

Q. Where did he go to?

A. To Manila.

Q. Did he afterwards return if so when?

A. He did not very long after he was gone. Sy Quia's uncle sent a ship here, Sy Quia being the SuperCargo, he however, left soon again with that ship.

Q. How do you know he returned?

A. I went to see him to get information concerning my brothers who were then in Manila.

Q. Did Sy Quia and his wife have any children, if so how many.

A. Two sons.

218 Q. What were their names.

INTERPRETER: There are two ways of spelling them, one is Mi Bo the other, Bi Bo, and Mi or Bi, dit.

Q. Do you write the Chinese Characters?

A. Yes.

Q. Will you write the name of the first son in Chinese manner? (Chinese characters.)

Q. Are the Chinese Characters, which you have just written in the record, the names of the first son you referred to?

A. Yes.

Q. Will you write the name of the other son in Chinese Character.

A. Yes.

Q. Please do so.

(Chinese characters.)

Q. Which of these two sons was the oldest.

A. Mi Bo (or Bibo) was the older he was the senior by one year.

Q. How do you know that this couple had these two children?

A. When the sons were born the father sent round cakes and so forth to notify the relatives, and they came to congratulate him; that is the way I came to know it.

Mr. Opiiso and Mr. Sumulong move that the answer to the preceding question be stricken out of the Record for the reason that it is incompetent.

Q. Where did these two sons live?

214 A. In the same house.

Q. With whom?

A. At that time the Grandfather and Grand-mother of these two sons were dead, they lived with their Father's younger brother, his wife and their Mother.

Q. In what village.

A. In Am Thau.

Q. How long did these two boys live in this house in Am Thau?

A. These two sons are dead now, they lived in the village of Am Thau until their death. They first lived in their old house then moved into their new house. This new house of theirs was close to my house which was also a new one, and this new house of theirs was the house in which they died.

Q. How often did you see these boys during their lifetime?

A. Very Often.

Q. Was Mibo, or Bibo, whose name you have written in Chinese characters, married or single at the time of his death?

A. He was married.

Q. Whom did he marry?

A. He married a girl of the Ho clan, of the village of Wa Chu.

Q. Is the wife of this man living or dead?

A. She is dead.

215 Q. How old was Sy Bibo (or Mibo) when he was married?

A. About 22 or 23, I am not sure, he was surely above 20 years.

Q. How do you know he was married?

A. I was present at his wedding feast as it was the custom for Clansmen to be present at such an occasion.

Q. At the time he married this girl from the Ho family was he married or single?

A. Mr. Opisso and Mr. Sumulong object to the question for the reason it is incompetent.

Witness answers. He was not married.

Q. Was the girl from the Ho family married or single at the time she married Sy Bibo (Mibo)?

Mr. Opisso and Mr. Sumulong object to the question on the same ground as the former one.

Witness answers. She was not married.

Q. Did they have any Children?

A. Yes.

Q. How many?

A. Only one. He had four or five sons, all of these did not live long, he had also a daughter, this only son I spoke of was adopted.

Q. Did all of his sons die while they were infants?

A. Yes. They were, in fact they lived only a short time after they were born.

Q. You referred to an adopted son, who was he?

A. His is named Au Chai.

Q. Where is that adopted son now?

A. He is in Manila.

Q. Where is the daughter?

216 A. Married in Au Chio Poa village. Her husband's name is Siao Cheong. This Siao Cheong is a relative of mine, my mother being the sister of his grandfather.

Afternoon session adjourned at 4 P. M. until September 7th, 9:30 A. M.

#### Morning Session:

Continuation of the direct examination of SY PENG.

9:30 A. M., SEPTEMBER 7TH, 1906.

By Mr. BISHOP:

All Parties appearing as heretofore.

Question. Is this daughter living or dead?

Defendants object to the question because it is immaterial and irrelevant.

Witness answers. She is dead. She only died a little over a ninth ago.

Q. Where did she die?

Defendants object to the question on the same ground as the former one.

Witness answers. In Au Chio Po.

Q. How long after the marriage of Sy Mi Bo (Sy Bi Bo) was this daughter born?

Defendants object on the same grounds.

Witness answers. About 3 or more years, as I said yesterday they had several children but all of them did not live long.

217 Q. Did this daughter of Sy Bi Bo (Sy Mi Bo) whose name we spell in the two different ways, as we are in doubt as to the exact sound, have any children as the result of her marriage?

Objected to by the Defendants for the reason that the question is incompetent, irrelevant, immaterial and leading.

Witness answers. Yes one son, about six or seven years old.

Q. How do you know?

A. By the reason of my relationship with her family. My mother being the sister of Siao Cheong's grandfather.

Q. In what village did this daughter live after her marriage?

Defendants object to the question on the ground that it is incompetent, irrelevant and immaterial.

Witness answers. She lived in the Au Chio Po village.

Q. How far is that village from Am Thau?

Defendants object to the question on the grounds of immateriality.

Witness answers. About four Li.

Q. Where is the child of that daughter now?

A. Defendants object to the question on the ground that it is incompetent, irrelevant and immaterial.

Witness answers. In Au Chio Po Village.

Q. How long has that child lived there?

Defendants object for the reason that the question is immaterial and irrelevant.

Witness answers. Ever since he was born he has lived in Au Chio Po, he is about six or seven years old now.

218 Q. Did this daughter of Sy Bi Bo, also pronounced Sy Mi Bo, have any other children except this boy?

Defendants object to the question the same being incompetent, irrelevant, immaterial and furthermore for the reason that it is leading.

Witness answers. No.

Q. What dialect of the Chinese language do you speak?

A. Amoy dialect.

Q. Do you read and write the Chinese language?

A. I read and write but very little.

Q. Can you write the names in Chinese Characters of the different persons you have referred to in your testimony?

A. Yes, I can.

Q. I will now ask you to write in Chinese characters in the Record the name of Sy Quia, being the same person whose name appears as Sy Quian, with a nasal sound, that is, the person you referred to whom you knew as a boy and who went to the Philippine Islands, and later whom you referred to as returning to Am Thau to get married, and later as the person whom you knew in Manila as Vicente Oromero Sy Quia- or Quian.

The Defendants object to the manner in which the request is made, since the Plaintiff assumes, and takes for granted that the person named by the witness and Sy Quia are one and the same person, the fact being that not only the spelling, but also the pronunciation of both names have not the slightest similarity  
219 and therefore the request, as made, is leading, and, if complied with, it would be nothing more than to follow to the letter the instructions given by the Plaintiff, such compliance cannot have any weight in the Record.

Mr. Bishop resents the use of the word "Instruction" as insulting.

Mr. Opisso: We never intended to use the word "Instruction" in any way to reflect upon the learned Attorney for the Plaintiffs, and if he considers the word insulting we promptly and gladly withdraw it, begging him to substitute that word for any other that may convey the idea that the Witness, in complying with the request made by him, would so, nothing else than corroborate and affirm every thing that is said in the request as it is worded.

Mr. BISHOP: We beg to withdraw our remark which was made through a misapprehension of the meaning of the Attorneys for Defendant.

Witness answers. By writing the Chinese characters as follows: (Chinese characters.)

Q. Can you write the name of this man's wife in Chinese characters, if so please do so in the record.

A. Yes I can, and will do so. Her surname being Yap and name Puan.

Witness writes characters in Record.

(Chinese characters.)

Q. Write the name Sy Mi Bo, or Sy Bi Bo, in Chinese characters.

Mr. Opisso and Mr. Sumulong object to the Witness writing that name, because such name as given has never been  
220 given by the witness.

Mr. Bishop adds to his question: I mean the person you referred to in your testimony yesterday.



Witness writes Chinese Characters as follows:

(Chinese characters)

Q. Write the name of Sy Mi, or Bi, Git in Chinese characters, that is the name of the other son you referred to in your testimony yesterday.

Mr. Opisso & Mr. Sumulong object on the same ground as to the preceding question.

Witness writes the following Chinese characters in record.

(Chinese characters)

Q. Who is the person whose name you have written in Chinese characters this morning, on page 48 of the Record?

A. Sy Quian (with nasal sound).

Q. Is he one of the persons you have referred to in your testimony, if so which one?

A. Yes. Sy Quian was one of them. He was the one I have referred to as the man whom I knew as a boy who then went abroad and came Home to get married.

Q. Who is the person referred to by you in the first Chinese characters which appear on page 49, of this Record?

A. Yap Puan Nid. She was the wife of Sy Quian.

Q. Who is the person whose name you have written in Chinese characters (I mean the second name) at about the middle of page 49.

A. Sy Mi Bo, the son of Yap Puan Niu.

221 Q. Do you know who was the father of this man?

Defendants object to the question for the reason it is incompetent.

Witness answers: His father is Sy Quian.

Q. Is the father the same person whose name you have written in Chinese characters on page 48 of this Record?

Defendants object to the question because it is leading.

Question withdrawn.

Q. State what relationship, if any, exists between the person whose name you have written in Chinese characters about the middle of page 49 of this record, and the person whose name you have written in Chinese characters at the bottom of page 48.

Defendants object again on the ground that the question is leading and incompetent.

Witness answers: Father and son.

Q. Which one is Father and which one is son?

A. The witness points out to the name at the bottom of the page 48, which he wrote in Chinese characters, as the father and the name which he wrote about the middle of page 49 in Chinese characters as the son.

Q. State what relationship if any exists between the person whose name you have written in Chinese characters at the bottom of page 49 of this Record and the person whose name you have written in Chinese characters at the bottom of page 48?

Defendants object to the question for the reason that it is incompetent and also leading.

## 222 Witness answers:

This one (Witness pointing to the name in Chinese characters at the bottom of page 48) is also father to the other one his son (Witness pointing to the name in Chinese characters at the bottom of page 49).

Q. Was the person whose name you have written in Chinese characters at the bottom of page 48 married or single?

Defendants object to the question because it is incompetent.

Witness answers: Yes. He was. He married Yap Puan Niu.

Q. Was the person whose name you first wrote in Chinese characters on page 49 of this record married or single?

Defendants object on the same ground as the preceding question.

Witness answers: She was married to Quia-a.

Q. Is that the person whose name you have written in Chinese characters at the bottom of page 48?

Defendants object to the question on the same grounds as the two former ones.

Question withdrawn.

Q. What relationship, if any, existed between the persons whose names you have written, one at the bottom of page 48 in Chinese characters and the other the first name in Chinese characters on page 49 of this Record.

Defendants object to the question on the ground that it is incompetent.

Witness answers:

223 Yap Puan Niu (Witness here pointing to the name in Chinese characters on top of page 49) was the Wife of Sy Quian-a (Witness here pointing to the name in Chinese characters at the bottom of page 48).

Q. Are these two persons living or dead?

A. Both dead.

Q. When did the person whose name appears in Chinese characters at the bottom of page 48 of this record die?

A. Upwards of ten years ago.

Q. Where?

A. Manila.

Q. When did the person whose name appears in Chinese characters near the top of page 49 die?

A. Also upwards of ten years ago.

Q. Where?

A. Here in China.

Q. At what village?

A. Am Thau village.

Q. When were these parties married?

A. When Sy Quian came home from abroad in about his 25th year.

Q. Where — they married?

A. In the Am Thau village.

Q. How do you know?

Defendants object because the witness has already testified as to this point.

Defendants withdraw Objection.

Witness answers:

I was present at his Wedding feast, being a Clansman I had to invite him to my wedding and he had to invite me to his.

224 Q. At the time of his marriage was he married or single?

Objected to by the Defendants because the question is incompetent.

Witness answers: He was unmarried.

Q. Was the person he married single or married at the time of this marriage?

Same objection by the Defendants.

Witness answers: She was not married.

Q. What identity if any, exists between the persons whose names you have written, one at the bottom of the page 48, and the other near the top of page 49 of this Record, and the persons you referred to in your testimony of yesterday as Sy Quian and Vicente Oromero Sy Quina, and Yap Puan?

Defendants object to the question because it is leading, and also because it is incompetent.

Witness answers: They are the identical persons respectively.

Q. Did they have any children?

Defendants object because the question is incompetent.

Witness answers: Yes. They had; Sy Mi Bo (Sy Bi Bo) was their son.

Q. Did they have any other children besides Sy Mi Bo (Sy Bi Bo)?

Defendants object because the witness has answered fully and the question now made is leading.

Witness answers: Another one named Sy Bi (or Mi) Git.

Q. How do you know that they had two children?

225 Defendants object to the question, because the witness has already answered it formerly, furthermore, because the witness is in no way qualified to answer these questions.

Witness answers. I received cakes from the father on the births of the sons, according to the custom, being Clansmen, I had to send him cakes to notify him of the birth of my son, and he had to do so to me.

Q. What identity, if any exists between the two sons you have just referred to and the names of the persons whose names you have

written in Chinese characters at about the middle and the bottom of page 49 of this record and this Sy Bi (or Mi) Bo and the Sy Mi (or Bi) Git whom you referred to in your testimony yesterday.

The Defendants object to the question because the same is incompetent and leading, furthermore the Defendants move that the preceding question and answer as well as all other questions and answers made to and given by the witness as regards the births of the persons named in the preceding questions, that is to say, those so called Sy Bi ones and Sy Bi Git ones be stricken out of the Records, because the witness has shown himself not to be qualified to answer or give any testimony regarding this point.

Witness answers. All identical persons respectively.

Morning session adjourned from 12 M. September 7th, 1906, to 2 P. M., September 7th, 1906.

226 Afternoon Session 2 P. M., September 7th, 1906.

All parties appearing as heretofore.

Question. Did Sy Bi (or Mi) Bo, that is the person whose name you have written in Chinese characters about the middle of page 49 of this record and his wife have any children.

Objected to by Defendants because the question is incompetent.

Witness answers. Yes. A girl and a boy.

Q. When was the girl born in reference to their marriage?

Objected to by Defendants because the question is incompetent.

Witness answers. Three or more years after they were married.

Q. Where is that daughter now?

Objected to by the Defendants because the question is incompetent, irrelevant and immaterial.

Witness answers. She has been married at Au Chiao Po village.

Q. Where is -he now?

Objected to by Defendants on the same grounds as the former question.

Witness answers. She is now dead.

Q. When did she die.

Objected to by Defendants because the question is leading and incompetent, irrelevant and immaterial.

Witness answers. About a month ago.

Q. Was she married or single?

227 Objected to because the question is incompetent and immaterial.

Witness answers. She was married.

Q. When was she married?

Defendants object on the same grounds as to the preceding question.

Witness answers. More than ten years ago.

Q. Can you write the name of this daughter, her husband and child in Chinese characters?

Objected to by Defendants on the ground that the question is immaterial.

Mr. BISHOP: We ask the Witness to write the name of the different Chinese whom he mentions in Chinese characters for the purpose of identity as it appears that there is no exact equivalent in the English Language for the different Chinese names.

Objection still stands.

Witness answers. Yes, I can write them.

Q. You will please do so, writing first the name of the daughter, then the husband and then the child.

Same objection by Defendants.

Witness writes the three names.

(Chinese characters separated in three parts by lead pencil marks.)

Q. Where does the husband live?

Objected by Defendants because the question is immaterial.

Witness answers. Her husband is now in Manila.

Q. Where is the child?

228 Defendants object on the same grounds as the former question.

Witness answers. The Child is at Home, Au Chio Po village.

Mr. Opisso & Mr. Sumulong want to make it appear that after the Witness had written the fourth Chinese character from the left hand side, went to speak and consult with Sy Leng, one of the Plaintiffs in the case, and after some conversation with him corrected what he wrote, adding some more strokes to the character he had previously written, and we beg that the Witness be instructed that while he is testifying as a witness in the case he must not speak or ask any questions to anybody and confine himself to answering the questions put to him to the best of his knowledge and ability, or otherwise that the Plaintiff Sy Leng be excluded from the Court room.

Mr. BISHOP: The last request made by Attorney for Defendant is not made in good faith, as he well knows that an attorney is always allowed to have his Clients present at every stage of a Proceeding, we have no objection to the witness being instructed by the Vice-Consul that he must speak to no one except through the Interpreter while on the Witness stand. I also desire to say that Witness did not consult my Client or any one else, before he made the change in the first part of the Second name of the Chinese characters which he had just written, and that the statement of Counsel for the Defendant was knowingly made for the purpose of trying to put something into the Record which would discredit the Witness, and I now ask the Vice-Consul to dictate a statement into the Record as to just what occurred when the Witness took back the Record and made the change.

And as Counsel for Defendants in the case that he wants to testify, I beg to suggest that he delay until the close of the testimony before complaining.

Counsel for the Defendants states that two of the expressions used by Counsel for the Plaintiffs are denigrating and insulting ones reflecting on their good faith in the Trial of this case; Counsel for Defendants can fully state that his request that the Plaintiff be excluded from the Court room is based on the fact that while the witness was writing the name of the party he was requested to write in the preceding page the Plaintiff approached the witness and spoke to him thereupon the witness changed some of the strokes of the Chinese characters and after getting through went aside talked to the Plaintiff again came back and made some more changes. Counsel for Plaintiffs sustain their remarks.

Mr. Bishop: I assert that the foregoing statement is untrue and again ask the Vice-Counsel to dictate a statement into writing as to what did occur, and I object to any further controversy over this matter as the statement of the Vice-Counsel will carry absolute verity with it.

Vice-Counsel states: That he heard some conversation in Chinese between the witness and the Plaintiff and saw the witness make some change in the Chinese writing.

QQ. What change did you make in the Chinese characters 2300 which you just wrote?

AA I made a change on the construction of the characters. I have not taken a pen for a long time. I forgot about the proper construction of the character. I thought about it and therefore made the change.

QQ. Did the Plaintiff Sy Yoe Lieng tell you to make that change?

AA No. I discovered the mistake myself. My memory failed me at first.

QQ. You say that Sy Bi (or Mr. Bi) whose name you wrote in Chinese characters at about the middle of page 49 of this Record had two children a boy and a girl, when was the boy born?

Objected to by the Defendants because the question is leading and incompetent.

Witness answers: This is not a question.

Mr. O'Fesse & Mr. Schumacher: Before presenting any further we should like to ask the Vice-Counsel to instruct the Witness as we have above requested.

Mr. Bishop: We have no objections to the request and join in the same, but also ask the Vice-Counsel to state in the record just what instructions he gives and as to whether or not this witness has been spoken to by Plaintiff or his Attorney save and except as stated by the Vice-Counsel before.

The Vice-Counsel states: That he accedes to the request of the Attorney for the Defendants and cautions the witness through the interpreter not to talk to anyone while on the witness stand except through the Interpreter and the Vice-Counsel wishes to state that he considers such an instruction unnecessary in 231



this Consulate and that with the exception already noted no cause for such instructions has been observed.

Q. When was this son adopted?

Defendants object because the question is incompetent and does not call for the best evidence.

Witness answers. When the child was one or two years old.

Q. How old was this boy when he was adopted?

A. About one or two years old.

Q. How do you know he was adopted?

A. By reason of my being Clanman the custom is when the boy visits his Grandmother's house, that is to say, on the Mother's side, and on his return therefrom he usually has cakes and so-forth which are given to him as presents and which he sends round to the Clansmen.

Q. Where is that boy now?

Defendants move that the preceding question and answer and the last question be stricken out on the ground that it is incompetent, irrelevant and immaterial.

Witness answers. Do you mean Yoc Chay?

Q. Yes.

A. Manila.

Q. Is he married or single?

A. Yes he is married.

Q. Where does his wife live?

A. She lives in Am Than.

Q. How old is Sy Yoc Chay now?

232 Defendants object, the question being incompetent and irrelevant.

Witness answers: He is about in the neighbourhood of thirty.

Q. Can you write his name in Chinese characters?

A. Yes.

Q. Please do so.

Witness writes name.

(Chinese characters)

Q. At the time the daughter of Sy Bi (Mi) Bo married was she single or married?

A. Defendants object to the question on the ground that the question is not material and is incompetent.

Witness answers: She was single.

Q. Is Sy Bi (Mi) Bo the man whose name appears in Chinese characters written by you about the middle of page 49, living or dead.

Defendants object to the question on the ground that it is leading and immaterial.

Witness answers: He is dead.

Q. When did he die?

A. When he was over 40 years old.

Q. Did he die before or after the man whom you referred to as the father and whose name you wrote in Chinese characters at the bottom of page 48?

A. When Si Bi (Mi) Bo died his father was still living. (Witness pointing to the name in Chinese characters at the bottom of page 48.)

Q. Is the wife of Sy Bi (Mi) Bo living or dead?

233 A. She is dead.

Q. When did she die?

A. More than ten years ago.

Q. Did she die before or after her husband's father?

A. Her father-in-law was still living, I think, at the time of her death.

Q. Just as we adjourned last night you asked me if you could change one of the characters in the name which you had written during the afternoon, what change did you want to make to that name.

Defendants object to the question because it is a leading one, and suggests to the witness to make a change in a name which the witness himself wrote and gave as the real and true name of the party whom he wished to identify by those characters, we therefore object to any change that the Witness may make at this or any subsequent period of the trial of any name or character which he has heretofore given.

A. I wanted to make a change in the character "Bo" I wrote down in the upper part of the character the Chinese Radical meaning "Bamboo" instead of "Grass," which (the latter) is correct.

Q. Earlier in your examination today I asked you to write the names of the daughter of Sy Bi (Mi) Bo, her husband and her child, in Chinese characters, which appear at page 58 of this Record, now without looking at those names, or the Chinese characters, I will again ask you to write those three names.

234 Defendants object, because it is an improper question since it not only asks for a repetition but also leads the witness.

The Witness has already given those characters as the corresponding ones for the names of the respective Parties, and to make him go over the same characters and the same names is improper and nothing more than a repetition. And furthermore suggests to the Witness to make any change if he was mistaken when he first gave or wrote those characters.

Mr. BISHOP: The witness has not left the Witness stand yet, or spoken to a soul, since he wrote those names except through the Interpreter, as appears by this Record, and has not seen those characters since he wrote the *the* same upon page 58, and we now ask this repetition without him seeing those characters.

Witness writes Characters.

(Chinese characters separated into three parts with lead pencil marks.)

Afternoon session closed at 4 P. M. September 7th, 1906.  
Adjourned until Monday morning 9:30 A. M. September 10th, 1906.

Morning session 10 a. m., September 10th, 1906.

Continuation of the direct examination of Sy Peng by Mr. Bishop.

235 All Parties appearing as heretofore.

Question. You stated in your prior testimony that Vicente Romero Sy Quia, or rather Vicente Oromero Sy Quian, had two sons, what was the name of the second son?

Defendants object for the question is leading and incompetent.

Witness answers: Mi (or Bi) Git.

Q. When was this son born?

Defendants object on the ground that the question is incompetent.

Witness answers: One or two years after the Father was married.

Q. How old was this son in reference to Sy Bi (or Mi) Bo?

Defendants object on the same grounds as to the former question.

Witness answers: Bi (or Mi) Bo was older and Bi (Mi) Git younger.

Q. How much older was Sy Mi (Bi) Bo than Sy Mi (Bi) Git?

A. One year.

Q. What was the name of the Mother of Sy Bi (Mi) Git?

A. Yap Puan Niu.

Q. What was the relation between Yap Puan Niu and the man whose name you have written in Chinese characters upon page 48 of this Record?

Defendants object to the question, because it is a repetition of what the Witness has already testified to several times.

236 Witness answers: Yap Puan Niu was Sy Quian's wife.

Q. How do you know that Sy Bi (Mi) Git was a son of the two persons?

Defendants object for the reason that the Witness is incompetent to answer the question.

Witness answers: By reason of the cakes and so forth I received at the time of the birth of this son, as a notification thereof.

Defendants move that the answer of the Witness be stricken out for it is incompetent.

Q. Where is Sy Bi (Mi) Git now?

A. He is dead.

Q. When did he die?

Defendants object; the question is incompetent.

Witness answers: About twenty years ago.

Q. Where did he die?

A. He died in Am Thao, China.

Q. How do you know?

A. I sent him Joss-papers, and was there to help.

Q. Was he married or single at the time of his death?

Defendants object; the question is incompetent.

A. He was married.

Q. What was the name of his wife?

A. Yap Sun Niu.

Q. Where is she now?

A. She is dead now.

Q. When did she die?

A. About ten years ago.

Q. How do you know?

A. I sent Joss-papers there.

237. Q. Why did you send Joss-papers at the time of the death of Sy Bi (Mi) Git and his wife Yap Sun Niu?

A. It is the custom for a Clansman to on such occasions.

Q. Where did the wife of Sy Bi (Mi) Git die?

A. In Am Thao.

Q. Did Sy Bi (Mi) Git and his wife Yap Sun Niu have any children?

Defendants object because the question is incompetent.

Witness answers: Yes, one son and one daughter.

Q. What was the name of the son?

(Question withdrawn.)

— How do you know they had two children?

A. By the reason of cakes I received as notifications of their births.

Defendants move that the answer be stricken out for the reason that it is incompetent.

Q. Why did you receive notification?

A. It is the custom for a Clansman to do on such occasions. I had to send cakes to my Clansmen when a Child was born in my family, whether by my Daughter-in-law or Grand-daughter-in-law.

Q. Who was older, the boy or the girl?

A. The boy was older.

Q. When was the boy born in reference to the time of the marriage?

A. About one or two years afterwards.

Q. When was the girl born?

A. Two or three years later.

Q. Where is the son now?

238. A. He is now in this room. (Witness pointing to the man sitting in the corner of this room. And mentioning his name as Sy Yoe Ling.)

Q. How old is he?

Defendants object, the question is incompetent.

Witness answers: The question can be put to Yoe Ling, since he is here.

Q. About how old is he?

Defendants object, because the question is incompetent, and the Witness has already said that Yoe Ling himself is the one that may tell his age.

Witness answers: About thirty, more or less.

Q. Is this man Sy Yoe Ling, whom you have just pointed out one of the parties to this law suit?

Mr. Bishop asks Sy Yoe Ling, one of the Plaintiffs, to stand up. Defendants object because it is perfectly immaterial that the Plaintiff be standing up or sitting while the witness testifies, and can see no connection why the Plaintiff should stand up while the Witness is testifying?

Mr. Bishop: We ask the Plaintiff Sy Yoe Ling to stand up so that there may be no doubt as to the person he identifies.

Defendants still object for the reason that the Witness has already pointed out who is Sy Yoe Ling and any further proceeding on this line will be a repetition.

By direction of Mr. Bishop Sy Yoe Ling stands up.

Witness answers: Yes, he is one of the principal ones.

Q. What relation, if any, is he to the Chinaman whose name you wrote in Chinese characters on page 48 of this Record and the name of the Chinese woman whose name you wrote in Chinese characters near the top of page 49 of this Record?

Defendants object on the ground that the question is leading and incompetent.

Witness answers: Yes, Sy Quian being the grand-father of Sy Yoe Ling.

Q. What relation, if any, is this Plaintiff, Sy Yoe Ling to the Chinese woman Yap Puan whose name you have written in Chinese characters near the top of page 49 of this Record?

Defendants object on the ground that the question is leading and incompetent.

Witness answers: Yes. Yap Puan being the grandmother of Sy Yoe Ling.

Adjourned at 11:45 until 2 o'clock at request of Mr. Bishop.

On account of the illness of the attorney for the plaintiffs the session is adjourned without hearing, until 9:30 a. m., September 11th, 1906.

Morning Session, 9:30 a. m., September 11th, 1908.

All parties appearing as here-to-fore.

Continuation of direct examination of SY PENG by Mr. Bishop:

Question. What is the name of the sister of Sy Yoc Ling?

240 A. Chiao Niu.

Q. Where is she now?

A. She is married in Che Chiun village.

Q. Where is the father of this Chinese woman?

A. He was Sy Bi (Mi) Git, and is dead.

Q. What relation, if any, is Chiao Niu to the man whose name you have written in Chinese characters at the bottom of page 48?

Defendants object for the question is incompetent and immaterial.

A. This man (Witness pointing to the name in Chinese characters at the bottom of page 48) is the Grand-father of Chiao Niu.

Q. Can you write in Chinese characters the names of Sy Yoc Chai and his sister, whom you have hereto-fore testified were the two children of Sy Bi (Mi) Bo, if so, please do so.

Defendants object; the question is leading.

Witness answers: I can write but having had no time to use the pen for a long time I may make some mistakes in the number of strokes.

Witness writes the two names.

(Chinese characters separated into two parts with lead pencil marks.)

Q. Can you write the names Sy Yoc Ling, and Chiao Niu the two parties you have testified as being the son and daughter of Sy Bi (Mi) Git, if so, please do so.

Defendants object because the question is leading.

Witness answers:

241 Witness answers: Yes I can.

(Witness writes the two names.)

(Chinese characters separated into two parts with lead pencil marks.)

Defendants move that the three copies of Page 74 be included in the Record because the names written by the witness are not exactly like in all three copies.

To which Mr. Bishop conforms. (Made part of record.)

Mr. Bishop requests the Vice-Consul to indicate the order in which the original and two copies were written by the witness.

Question. After you wrote the second name in Chinese characters which appears at the middle of page 74, marked by the



Vice-Consul in red ink, as 1, and before you wrote the second name on the two copies of this page, indicated by the Vice-Consul in red ink, as 2 and 3 you said something to the Interpreter, indicating that you had made an error in the second character of the second name upon the original page 74 and identified by the Vice-Consul as 1. Please repeat into the Record what you said to the Interpreter.

Defendants object to the question and to the way the same is made. The question is leading and the attorney for the Plaintiffs undertakes to tell the witness what the witness is supposed to have said to the interpreter, and leads the witness to confirm something which the witness has not put or said into the Record, as his testimony.

Continuation of question:

Mr. Bishop adds to the question; I mean the words you said in Chinese to the interpreter just as you had finished writing the second page.

242 Mr. Oprisso still maintains the objection on the same ground as stated.

Witness answers, I said that name ought to be Sy Hui Niu, instead of Sy Chiao Niu, which I had put down.

Q. How do you wish the writing of this second name at the middle of the triple page 74 to stand, as it appears upon 1, 2, or 3?

Defendants object because the question is decidedly a leading one, and the attorney for the Plaintiff in making such request to the witness goes against his own witness.

Witness answers. The second name on No. 1, or page 74 is an error, which I desire to change in accordance with the other two.

Q. Please write in Chinese characters again the names of the two children of Sy Bi (Mi) Bo and the two children of Sy Bi (Mi) Git.

Defendants object because the question is nothing but a mere repetition and leads the witness to change his former answer in writing.

Mr. Bishop: Add to my question: the Vice-Consul is requested to hold these three pages (74) so that Witness never see them while answering this question.

Objection of the Defendants still standing.

Witness writes as follows:

(Chinese characters separated by one lead pencil mark.)

Witness continues answer.

(Chinese characters separated by one lead pencil mark.)

243 Q. Do you know the house in Am Thau in which the plaintiff Sy Yoc Ling lives?

A. Yes I do.

Q. What rooms are there in that house, if any, other than living rooms?

A. There are many people, in fact, several families living in the house.

Q. How is the house constructed?

A. Two principal houses, and four wings.

Q. Is there a Chinese temple in that house?

A. There is a department devoted to the Tablets of Ancestors, and one for the Budd-as.

Q. How old is this temple?

A. You mean the temple in the house where he lived, or do you mean our big Temple?

Q. I mean the one in the house.

A. It has been built more than fifty years ago.

Q. Have you ever been in this temple, if so how often within the last 50 years?

A. Yes I have been to this temple occasionally.

Q. What is kept in that temple?

A. In this one are kept the Tablets, the gods, and some furniture of the house.

The Witness is shown a Tablet, which Plaintiffs ask to have marked and identified by the Vice-Consul as Plaintiff's Exhibit 1.

The Vice-Consul identifies this Tablet by writing on the bottom of it "Plaintiffs' Exhibit No. 1, Rea Hanna, Vice-Consul." And the American Consular date Stamp, "American Consulate, September 11th, 1906, Amoy, China."

The Tablet is composed of 3 pieces, the base and the outer and inner Tablets.

244 Q. I will now ask you if you have ever seen this tablet marked "Plaintiffs' Exhibit 1" before. (Tablet is handed to Witness.)

A. Yes I have seen it before.

Q. Where?

A. Inside of his house.

Q. What house do you mean?

A. In the house where Sy Yoe Ling lives.

Q. In what part of that house?

A. In the Ancestral Shrine.

Q. Is that shrine in the same room as you referred to as a temple?

Defendants object because the question is leading.

Question withdrawn.

Q. Where is that shrine kept?

A. Inside of that house. In the second house from the front.

Q. In what room of the house?

A. In the room of the house which is devoted to the Tablets and Chinese gods.

Q. When were you in that room last?

A. About two weeks ago.

Q. What were you doing there?

A. I went there by the invitation of Lin, and I saw he took some tablets out of the shrine.

Q. Did you see this Table there at that time?

A. Yes, I did.

Q. What, if any thing, did you do with this tablet?

245 A. There were many tablets in the shrine and only the ones thought likely to be needed were taken out.

Q. How many were taken out?

A. Three.

Q. Who took them out?

A. Sy Yoc Ling and myself.

Q. What did you do with those three tablets?

Defendants object, the question is leading.

Question withdrawn.

Q. What was done with those three table-s?

A. They were taken out to be submitted as evidences.

Q. What did you and Sy Yoc Ling do with those three tablets?

A. Myself and Sy Yoc Ling went there examined Chinese characters on the tablets, found out the right ones, burnt incense before them and paid respect to the same in the Chinese way and then reverently took them out of the shrine.

Q. After taking them out of the shrine, what did you do with them?

A. After they were taken out they were brought down here to be used as evidence.

Q. Who brought these three tablets down here to Amoy?

A. Sy Yoc Ling and myself.

Q. To whom did you deliver the three tablets after you arrived at Amoy?

A. To the Lawyer (Witness pointing to Mr. Bishop).

Q. Is Plaintiffs' Exhibit No. 1 one of the three tablets he delivered to me?

Defendants object, because the question is somewhat leading.

246 Witness answers: Yes.

Q. In representation of whom, or in memory of what person is this tablet, Plaintiffs' Exhibit 1?

The Defendants object to the question because it is incompetent and leading.

Witness answers: This tablet is in memory of Sy Quian and Sy Quian's wife, Yap Puan Niu.

Q. Who were these two parties?

A. They are Sy Quian and Yap Puan Niu.

Q. What relation if any were the two parties in whom this tablet is in memory, and the four persons whose names you have written in Chinese characters, two at the bottom of page 76, and two at the top of page 77 of this record?

Defendants object to the question, because it is leading and incompetent.

Witness answers: The parties in whom the tablet is in memory, namely, Si Quian and Yap Puan Niu, are respectively the grandfather and grandmother of Sy Yoe Chai and his sister and Sy Yoe Ling and his sister. (Witness pointing out the four names in Chinese character on page 76 and 77.)

Q. How many children, if any did the parties mentioned in Plaintiffs Exhibit 1 have?

Defendants object because the question is incompetent.

Witness answers: They had two sons.

Q. What were their names?

A. Sy Bi (Mi) and Sy Bi (Mi) Git.

Q. What identity, if any, is there between the Sy Bi (Mi) Bo and Si Bi (Mi) Git whom you have just mentioned and the Sy Bi (Mi) Bo and the Sy Bi (Mi) Git whom you have heretofore mentioned in your testimony?

247. Defendants object on the ground that the question is leading.

Witness answers: They are the identical persons that I have mentioned in my testimony, both yesterday and on the former day.

Morning session adjourned until 2 P. M. September 11th, 1906.

Afternoon Session.

2 00 P. M., SEPTEMBER 11TH, 1906.

Continuation of the direct examination of SY PENG by Mr. Bishop:

All parties appearing as heretofore.

The Plaintiffs now offer in evidence this Table marked "Plaintiffs' Exhibit No. 1" and identified by the Vice-Consul as heretofore stated.

The Defendants object to the introduction of Plaintiffs' Exhibit No. 1, as evidence in this case; for the reason that the same is irrelevant and immaterial and incompetent.

The Witness is shown a Tablet which Plaintiffs ask to have marked and identified by the Vice-Consul as "Plaintiffs' Exhibit 2."

The Vice-Consul identifies this tablet by writing on the bottom of it "Plaintiffs' exhibit No. 2. Rea Hanna, Vice-Consul." And also the American Consular date Stamp "American Consulate September 11th, 1906, Amoy, China."

Question: Have you ever seen this tablet marked "Plaintiffs' Exhibit No. 2?" (Tablet is handed to Witness.)

A. Yes. I have seen this before, and it is one of 248. those I took out of the shrine.

Q. What shrine?

A. The same shrine in the house as I stated heretofore.

Q. Who, if any one, was with you when you took it out of the shrine?

A. It was this Sy Yoc Ling (Witness pointing to the Plaintiff sitting at the end of the room) who was with me then.

Q. State if you know how long this tablet had been kept in that shrine?

Defendants object because the question is incompetent, irrelevant and immaterial.

Witness answers: More than twenty years.

Q. When was it first put in that shrine?

A. Defendants object on the same ground as to the former question.

Witness answers: About twenty years ago, more or less.

Q. When was it put into the shrine in reference to the time of the death of Sy Bi (Mi) Bo.

Defendants object because the question is leading, and incompetent.

Witness answers: Three or more days after the death of—No, it was a year after the death of Sy Bi (Mi) Bo that this tablet was put in the shrine.

Q. After you and Sy Yoc Ling took this tablets out of the shrine what did you do with it?

A. After it was taken out of the shrine to be used as evidence it was taken down here.

249 Q. What did you do with it after you brought it down here to Amoy?

A. It was taken down from Amoy to be used as evidence.

Q. To whom did you deliver it in Amoy?

A. It was given to the lawyer.

Q. What lawyer?

A. It was given to this lawyer. (Witness pointing to Mr. Bishop.)

Q. To whose memory does this tablet refer?

Defendants object on the ground that the question is leading and incompetent.

Witness answers: Sy Bi (Mi) Bo.

Q. What identity is there, if any, between the memory of the person for whom the tablet was made and the Sy Bi (Mi) Bo you have here-to-fore mentioned several times?

Defendants object, because the question is leading.

Witness answers: They are the identical persons.

Q. What relation, if any, existed between the person in whose memory this tablet "Plaintiffs' Exhibit No. 2" is and this tablet, marked "Plaintiffs' Exhibit 1."

Defendants object on the ground that the question is leading and incompetent.

Witness answers: The person in whose memory this tablet the

"Plaintiffs' exhibit No. 2" is the son of the man mentioned in the tablet "Plaintiffs' Exhibit No. 1," his father, and the woman mentioned therein, his mother.

— What relation, if any, existed between the person in whose memory exhibit 2 was made and the two persons whose names  
250 you have written in Chinese characters at the bottom of page 76.

Defendants object the question is leading and it is incompetent.

Witness answers: Sy Yoc Chai and Sy Hui Niu (Witness pointing to the names in Chinese characters at the bottom of page 76 are the son and daughter respectively of the man and woman mentioned in tablet "Exhibit No. 2.")

The Plaintiffs now offer in evidence this Tablet marked for identification by the Vice-Consul as "Plaintiffs' Exhibit No. 2," Rea Hanna, Vice-Consul," and the American Consulate date stamp "American Consulate September 11th, 1906, Amoy, China."

Defendants object to the admission of "Plaintiffs' Exhibit No. 2" in evidence, on the ground that the same is incompetent irrelevant and immaterial.

The Witness is shown a tablet which Plaintiffs as- to have marked and identified by the Vice-Consul as "Plaintiffs' Exhibit No. 3."

The Vice-Consul identified this tablet by writing on the bottom of it "Plaintiffs' Exhibit No. 3. Rea Hanna, Vice-Consul." And also the American Consular date stamp "American Consulate September 11th, 1906, Amoy, China."

Mr. Bishop begs to call attention to the fact that exhibits 2 and 3 are composed of three pieces, the same as Exhibit No. 1 was described.

Q. Have you ever seen this Tablet, marked Plaintiffs' Exhibit No. 3? (Tablet is handed to witness.)

A. Yes. It is in memory of Sy Bi (Mi) Git.

Q. Where did you see it before?

251 A. In the same house, in the same shrine as heretofore stated.

Mr. Opisso asks that the words "in memory of Sy Bi (Mi) Git" appearing in the latter part of the answer to the preceding question be stricken out as being incompetent.

Q. State, if you know, in whose memory this tablet was prepared? (Witness is shown Tablet "Plaintiffs' Exhibit No. 3".)

Defendants object for the reason that the question is incompetent, and also leading.

Witness answers. Sy Bi (Mi) Git and his wife.

Q. Who, if any one, was with you when you took it out of the shrine?

A. Yes, Sy Yoc Ling's grand-aunt-in-law.

Q. Who, if any one, was with you when you took this Tablet "Plaintiffs' Exhibit No. 3" out of the shrine?



(Question is repeated as it is apparent from the answer that it was not understood.)

Defendants object the answer given by the witness to the same identical question made to him just a moment ago is a full answer to the question. In repeating the question to the witness makes the question leading. The answer given by the witness does not suggest that the question put to him was not understood by him, therefore we object on the ground that under these circumstances the question is leading and a repetition.

Witness answers. Yes Sy Yoc Ling.

Q. What did you and Sy Yoc Ling then do with this tablet?  
Plaintiffs' Exhibit No. 3."

252 A. We took it down to Amoy.

Q. To whom did you deliver it?

A. We gave it to the same lawyer, (Witness pointing to Mr. Bishop.)

Q. State if you know how long this Tablet had been kept in the shrine in Am Thau?

Defendants object, the witness is incompetent to answer this Question.

Witness answers. About twenty years or more.

Q. When was it put into the shrine, in reference to the time of the dath of Sy Bi (Mi) Git?

Defendants object that the question is leading and incompetent.

Witness answers. A year after the death of Sy Bi (Mi) Git.

Q. What relation, if any, existed, between the person in whose memory this tablet "Exhibit No. 3" was made and this Tablet, "Plaintiffs' Exhibit No. 1"?

Defendants object on the ground that the question is leading and incompetent.

Witness answers. The person in whose memory the tablet "Exhibit No. 3" was made is the son of the man and woman in Tablet "Exhibit No. 1."

Q. What relation, if any, existed, between the person in whose memory Exhibit No. 3 was made and the two persons whose names you have written at the top of page 77 of this Record?

Defendants object to the question on the ground that it is leading and incompetent.

253 Witness answers. The man and woman mentioned in Tablet No. 3 are the father and mother of the person whose names I have written on the top of page 77.

The Plaintiffs now offer in evidence this tablet, marked for identification by the Vice-Consul as "Plaintiffs' Exhibit No. 3. Rea Hanna, Vice-Consul." And the American Consular date stamp "American Consulate, September 11th, 1906, Amoy, China.

Defendants object to the introduction and admission of Tablet

"Plaintiffs' Exhibit No. 3" in evidence on the ground that such exhibit is incompetent, irrelevant and immaterial.

Q. State, if you know, how long this tablet "Plaintiffs' Exhibit No. 1" was kept in the Shrine?

Defendants object on the ground that the question *is* already been answered by the Witness, and it is therefore but a mere repetition, furthermore the question is incompetent and immaterial.

Witness answers. More than twenty years.

Q. Who died first the persons mentioned in exhibit No. 1 or in exhibit No. 2?

Defendants object to the question, the witness has already answered it and it is therefore but a mere repetition, furthermore the question is incompetent.

Witness answers. Sy Bi (Mi) Bo, the person mentioned in "Plaintiffs' Exhibit No. 2" died first.

Q. Who died first, the persons mentioned in Exhibit No. 1 or in Exhibit No. 3?

Defendants object on the same ground as the former question.

254 Witness answers. Sy Bi (Mi) Git the person mentioned in Exhibit No. 3, died first.

Q. How many brothers, if any, did the man have whose name is mentioned in Exhibit No. 1?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Yes. He had one.

Q. Is that brother living or dead?

A. He is living, and is now in Manila.

Q. How old is he?

A. He is between fifty-five and sixty.

Q. About how much younger was he than the man mentioned in exhibit No. 1?

Defendants object, the question is incompetent and immaterial.

Witness answers. About twenty years or more.

Q. What is the name of that brother?

A. Sy Hien.

Q. What relation if any is Sy Hien to the man you referred to in the early part of your testimony as Sy Quian Hien?

Defendants object on the ground that the question is incompetent and immaterial, also irrelevant.

Witness answers. Sy Hien is the younger brother of Sy Quian. Sy Hien while brother of Sy Quian, I understand has been adopted as the son of one of his uncles.

— Can you write the name of his younger brother Sy Hien if so, please do so?

255 Defendants object on the ground that the question and the request are irrelevant and immaterial.

Witness answers, by writing the following Chinese characters:—  
(Chinese characters.)

Afternoon session adjourned to 9:30 A. M. September 12th, 1906

Morning session, 9:30 a. m., September 12th, 1906.

All parties appearing as heretofore.

Continuation of direct examination of SY PENG by Mr. BISHOP:

Question. What relation, if any, is Sy Yoc Ling, the Plaintiff, to Sy Hien, the person whose name you have written in Chinese characters upon page 92 of this Record?

Defendants object on the ground that the question is incompetent, and immaterial.

Mr. Bishop objects to Attornies for the Defendants encumbering this Record with any objection except objections to the form of interrogatory, as it makes needless expense to the Plaintiffs who must advance the fees and expenses of these Depositions.

Witness answers. Sy Hien is Sy Yoc Ling's grand-uncle No. 5.

Q. What do you mean by "Grand-uncle No. 5"?

A. By "grand-uncle No. 5" I mean that Sy Hien is the fifth son of Sy Quian's parents.

256 Q. Where are the other brothers of Sy Hien?

A. Sy Hien is the only brother living, the rest having died.

Q. What relation if any, is Sy Hien, the man whose name you have written in Chinese characters on page 92 to the man whose name you have written in Chinese characters on page 48 of this Record?

Defendants object on the ground that the question is leading, incompetent, irrelevant and immaterial.

Q. What relation, if any, was the man whom you have referred to as Sy Quian, and as Vicente Ormero Sy Quian, and the person whose name you have written in Chinese characters at the bottom of page 48 of this record, and the woman who is referred to in this Tablet, marked "Plaintiffs' Exhibit No. 1"?

Defendants object the question is a repetition; it is furthermore leading and incompetent.

Witness answers. Yap Puan (witness pointing to the name of the woman mentioned in Tablet "Plaintiffs' Exhibit No. 1") is the wife of him.

Q. About how often did you meet this man we have just referred to whose name is written on page 48, in Manila?

A. Not very often, sometimes I saw him when I went there.

Q. About how many times have you been in Manila?

A. Thirty or forty times. My business was that of a Broker and I used to go back and forth, between here and Manila.

257 Q. Did you have any business relation or dealings with the man and woman whose names are mentioned in this Tablet "Plaintiffs' Exhibit No. 1"? If so, what?

A. Yes. I was the messenger of the woman when I went to Manila. She often asked me to bear verbal messages to Sy Quian in Manila, asking him to send her money, to take good care of himself, and to come home when possible.

Defendants move to have the last question and answer stricken out from the Record because it is hearsay. Furthermore because the statement given by the Witness is incompetent and irrelevant

Q. And what business dealings or relations did you have with this man in Manila, if any?

A. I was also the messenger of this man on my homeward voyage, he sometimes sent money by me to his Home in China and asked me to tell his wife to properly look after the children and not to be extravagant.

Q. How much money would he send by you at the different times to be delivered to his wife?

A. Defendants object on the ground that the question is immaterial.

Witness answers. Sometimes he would send twenty or thirty dollars, while at other times more, say about 80 or 100 dollars, sometimes he sent his money by other men, but mostly by me.

Defendants move that the last part of the answer of the witness be stricken out, for it is hearsay and irrelevant.

258 Q. I believe you stated that you were present at the marriage ceremony between this man whom you have just mentioned and the woman referred to in this Tablet, marked "Plaintiff's Exhibit 1"?

A. Yes. I was present.

Q. Please describe that ceremony in full.

A. First of all certain Mediators exchanged the "Eight Characters" of the two parties, they made diligent enquiries concerning the respective families; family gods were consulted, and when everything was considered satisfactory the contract was made. They, the Mediators, reported that Yap Hay Sai was a man of good standing and that Yap Puan, the girl, was a good girl, and so forth, which reports led to the conclusion of the contract. When the contract was decided upon, a pair of bangles was sent from the family of the groom to that of the Bride, and later the day was set when marriage presents were sent to the house of Yap Puan such presents consisting of money, betrothal money, as it is called, pieces of silk, candies and so forth.

The sugar candies sent by the family of the groom to that of the Bride were to be distributed among the friends and relatives of the latter, in return for this they sent a number of front-breast-pockets, dried oranges, certain other fruit was sent by the Bride's family which were to be distributed among the friends and relatives of the groom.

259 The contract is thus made and all friends and relatives notified thereof, it remains now for the marriage to take place, for which a good and lucky day is set, and all necessary arrangements made on both sides for the occasion. It is the business of the groom to send to the bride a complete Bridal suit and so forth, which the Bride must wear on the day she comes to the house of the groom to be married. A red chair is then sent by the groom in company of the Mediators and other friends with presents and a list of such presents to the house of the Bride. Then the Bride comes with furniture and other things and on her arrival fire crackers were fired, so that not only the neighbors, but the whole village is notified. The same Mediators accompanied the Bride to her new home and the couple worshipped Heaven and Earth and other Chinese gods. Then the couple was shown to their room there they must sit together in the presence of the Mediators and eat from the same bowl, they perform other superstitions and rites. I have a good deal of more to tell. It will take a day. Three days afterwards the couple made their appearance before the different Chinese gods of the family, the Tablets of their Ancestors, and the elder members of the family, pay respects to them, by kneeling down and Kowtowing to them, 260 Then a Reception was given to all the members of the family both distant and near relatives in the name of the Bride, and she is introduced there to them. A few days after she is to serve tea to the elder members of the family and other members—by the other members I mean the parents or relatives of their rank in reference to their blood relationship, and the other members I mean members of equal rank of the couple—in return for the tea they usually give her presents, some in money, others in ornaments. Later a general Reception was given to which all the people of the village are invited. They can now come and see the Bride, this is the most trying day for her as remarks as to her personal appearance are indulged in. On the twelfth day of the marriage the couple are invited to visit the Bride's Mother. They call on every member of her family and they usually make them present and they return their presents. They are assisted by the brothers of the Bride who do the introductions, and who as a rule on the third day after the marriage call on the groom. On this day also a certain kind of Chinese cake, specially prepared for the occasion, is sent to the house of the Bride. The groom and Bride return the same, before returning they call on the members of the house to say goodbye, and on their return they are burdened with presents consisting of cakes, sugar candies, dishes of food, and so forth and so forth. To all

those friends and relatives of the groom are invited and that another day is spent in celebration. (Sometimes the expense on the part of the Bride's family is entirely borne by the groom so this is rather an expensive day for him.) Every day for 30 days—this may count from the day of the marriage or from the 12th day after the marriage. I mean the day the visit of the couple to the Bride's former home is made. The Parents of the Bride send specially prepared dishes to the home of the groom for the meals of the newly married couple. In the case of exceptionally wealthy families this custom is sometimes continued for a period covering 60 days instead of 30. The two families have thus been related to each other from this date on; they exchange visits, presents, and so forth, but for which no special custom governs.

Mr. Blenzer did not describe the ceremony beyond the point when the two families are considered united, unless Counsel for the Defendants wish the answer continued.

Counsel for the Defendants agree with the suggestion of the Plaintiff.

Q. In part of your last answer you have used general terms in the description of the marriage ceremony; do you mean these terms to be used generally or in reference to the marriage ceremony between the parties referred to in this Tablet marked "Plaintiff's Exhibit 17"?

Mr. Orrorio & Mr. Sembrano: We object to the question; it is a decidedly leading one; the witness has answered the question put to him with full knowledge and the Record speaks for itself.

Witness answers: What I said was describing a general marriage ceremony, but they were precise, undergone by the parties therein referred to. (Witness pointing to Tablet marked "Plaintiff's Exhibit 17").

Q. How was the ceremony of the two parties referred to in this tablet "Plaintiff's Exhibit 17" performed?

Defendants object to this question, it is idle for a repetition and the same question has been made to and answered by the witness twice.

Witness answers: The person referred to in this Tablet (Witness holds Tablet exhibit No. 1 in his hands) are Sy Quise and Yag Puan, they went through the same ceremony as I have described; that is, they were betrothed, married, and made a visit to the Bride's former home in the same manner as I have described.

Q. What relation, if any, is there between the parties you refer to in this marriage ceremony and Sy Bi (Mr. Bol) and Sy Bi (Mr. Git)?

Defendants object to the question; it has been put to the witness more than twice already, and the witness has answered the same many times; furthermore it is incompetent.



Witness answers. They are the father and mother of Sy Bi (Mi) Bo and Sy Bi (Mi) Olt, who were their sons after this marriage.

Q. What relation, if any, is there between the parties you have referred to in this marriage ceremony and the plaintiff Sy Yoe Ling and the other grandchildren whom you have here-before mentioned in your testimony?

The Defendants object to the question it is a leading one and not only a leading one, but also suggests the answer in the same. Furthermore the question is incompetent, and a repetition.

Plaintiff withdraws the question.

Q. What relation, if any, is there between the parties you referred to in this marriage ceremony and the four persons whose names in Chinese characters, two at the bottom of the page 76, and two at the top of page 77 of this Record.

Defendants object to the question because it is incompetent.

383 Witness answers. They are grand-father and grand-mother of these four parties, (Witness pointing to the two names in Chinese characters at the bottom of page 76, and the two at the top of page 77.)

Interpreter wishes to repeat the answer, as follows, so as to agree with the exact words used by the witness on the stand. They are the father and mother. — Oh, no, the grandfather and grandmother of these four parties (pointing to the two names in Chinese characters at the bottom of page 76, and the two at the top of page 77.)

Session adjourned until 2:00 p. m. September 12th, 1906.

Afternoon Session, 2:00 p. m., September 12th, 1906.

All parties appearing as here-before.

Continuation of direct examination of Sy Pasa by Mr. Bishop.

Question. You stated that you were present at the marriage ceremony of Sy Bi (Mi) Bo whose name you have written in Chinese characters about the middle of page 49 of this Record, have you not?

Defendants object to the question, not only because it is leading but because the witness has not testified to that effect.

Mr. Bishop: Question withdrawn, without being interpreted to the witness.

Q. State whether or not the person whose name you have written in Chinese characters at about the middle of page 49 of this Record was married or single.

Defendants object because the witness has already testified as to that fact and the question is therefore a repetition besides being incompetent.

Mr. BISHOP: I think I have asked the same question before, but in view of the prior objection, and being in doubt, I ask this question in place of taking time to look up the Record.

Witness answers. He was married.

Q. How do you know?

A. I was invited to his wedding.

Q. Were you or were you not present at his wedding?

A. I was present.

Q. Describe that marriage ceremony briefly.

A. He was married through the same ceremony as his father's which I have described, with the exception that the Mediators were not the same persons.

Q. State whether or not the person whose name you have written in Chinese characters at the bottom of page 49 of this Record was married or single?

A. Defendants object on the ground that the question is incompetent, and also a repetition of a former one.

Mr. BISHOP: I am in doubt as to whether it is a repetition or not, but in view of the objection to the same question as to this person's brother I repeat it in place of taking time to look up the  
265 Record — this, the same as the former question, being preliminary.

Witness answers. He was married.

Q. Describe briefly the marriage ceremony.

A. Defendants object for the reason that the question is incompetent, and without foundation.

Mr. Bishop begs to state that he does not understand the last part of the objection and asks if Counsel means that the question is leading.

Counsel for the defendants mean that no foundation has been made to ask this question, in a way the question is therefore leading.

Witness answers. The ceremony was precisely the same as I have described, the Mediators and dates were different, of course.

Mr. Bishop announces. That is all.

Cross-examination of SY PENG by Messrs. SUMULONG and OPISSO, attorneys for the defendants:

Question. Are you positive that you are exactly eighty years old, not one year more or less?

A. No.

Q. What do you mean? by saying "no".

A. I mean I am eighty years old.

Q. Not one year more?

A. No.

Q. Not one year less?

A. No, exactly eighty, no more and no less.

Q. Will you kindly tell us the date, month and year you were born?

266 A. I am old, I need to take time to think. I was born on the 7th day of the 12th moon. The year of the Rat.

Q. How old were you when Sy Quian married Yap Puan?

A. I was either 20 or 21 years old then, I am so old that I cannot remember exactly.

Q. How old was Yap Puan when she married Sy Quian?

A. She was about 20, may be a difference of one or two years.

Q. How old was Sy Quian when he married Yap Puan?

A. He was 25 years old.

Q. You stated that the first time Sy Quian went abroad he was 12 years old, will you kindly tell us how long did Sy Quian stay abroad. We mean how long a time did transpire until he returned to China for the first time?

A. He went abroad at the age of 12 or 13 and remained abroad until he came home, that is, in his 25th year, this is not a personal matter of mine and I cannot be expected to remember the exact dates.

Q. However, you know the age of Sy Quian and Yap Puan when they married, can you explain that, why is it that you remember their ages so well, and yet you cannot tell us how long a time did Sy Quian stay abroad before coming back to China for the first time.

A. I did give answer to your first question when I stated Sy Quian went abroad at the age of 13 and returned home to be married at the age of 25. Sy Quian was the senior in age of Yap Puan by 3 or 4 years.

267 Q. Why do you know that Sy Quian was 25 years old when he married Yap Puan?

A. By reason of our intimacy. Sy Quian had been abroad before I went. At the time he came home I was there several days to help him make arrangements for his marriage—I do not want to have it understood that I was a labourer then and employed by him—after he went abroad again he kept on sending me letters.

Q. What we desire to know is, how do you know that Sy Quian was 25 years old when he married Yap Puan, that is to say whether you knew it by yourself or somebody else had told you that.

A. I knew it myself. I knew he was 25 years old by reason of our intimacy we were boys and grew up together.

Q. You state that you knew that Sy Quian was 25 years old at the time that he married Yap Puan by reason of your intimacy with him, do you mean by that, that Sy Quian, or some other person had told you his age at the time he was married?

A. We were grown up as boys and we knew each others ages well, I knew the age he went abroad, and knew the age he came home to be married, he was then 25, and I was 20. I have never told fabrications in here. I have been an elder of the village, it has been my pleasure to settle local matters. One time there was a disputed over some property in the village of Au Chiao Po after

some 20 or 30 prominent men some of them from Amoy had tried and failed to settle the same I was invited to go there, I am an Opium smoker, I admit I took my own opium with  
 208 me at that time, paid my own expenses travelling, and my hotel bill and had that matter settled in Au Chiao Po. I am the Head of the family Consisting of many sons, grandsons and their wives and children. Everything I testify here is my own personal knowledge, as it will mean no gain pecuniarily or loss to me one way or other, in the present case.

Messrs. Opiso & Sumulong move that the answer of the witness excepting the very beginning be stricken out on the ground that it is not responsive to the question.

Q. During the whole time of Sy Quian's first stay abroad did you ever see him or speak to him prior to the time he came back to China to be married?

A. Yes. I did.

Q. How many times, when, and where?

Q. At the time he first came home I went to see him and made enquiries about my uncle who was also abroad, for I had never been abroad then.

Q. You then mean that the first time you saw Sy Quian after he left first was when he came back to China to be married?

A. Yes that is what I mean.

Q. Did you receive, or have any news from Sy Quian during the whole time he was absent for the first time, as regards where he was, what was he doing and what business, if any, he had, and how he was getting along?

A. No I had no news as to what business he had, or how he was getting along.

Q. You then had no news about Sy Quian during the  
 209 whole period of his first absence from China?

A. Yes. Sy Quian sent some letters to his family but not to me. I heard people say he was prosperous but this was mere hearsay.

Q. Then that is all you know about him during his absence up to the time he came back, was it not?

A. I did not know much about him or his business during his first absence from home prior to the time he came home to be married, for I did not go abroad during all that time.

Q. Then will you tell us if you did not have so much news about Sy Quian during the whole time of his first absence, and knew so little about what was he doing abroad how can you explain and assert that Sy Quian was single at the time he returned from abroad for the first time?

A. I met him when he came home and in response to my question he told me he came home to get married and was single.

The Defendants move that all what has been stated by the witness regarding the fact that Sy Quian was single at the time he

returned home to be married here, be stricken out as incompetent, and being hearsay.

Mr. Bishop gives notice that unless he specially conforms in any motion to strike out testimony that he reserves the right to contest such motion, or motions, at the time the Deposition may be offered to be read in evidence.

Q. How long is it since you handled or used the pen?

270 A. It is a long time, I leave the business of writing anything to my sons and grandsons now, and have done so for a long time.

Q. Are you sure that the Chinese characters you have written into the Record in answer to some questions put to you by the Attorney for the Plaintiffs as expressing the name of some Parties are correct?

A. They are correct, but I am not sure, through my bad eyesight, and in view of the fact that I have not used the pen for a long time, I have made the number of strokes distinctly.

Q. Can you read the Chinese characters appearing in Tablets Exhibits 1, 2, and 3 of the Plaintiff?

A. I can read most of them, there may be a word or two I do not know.

Q. Is it not true that the only thing you can read in Tablet 'Plaintiffs' exhibit No. 1, 2, and 3, are the names of the parties written therein, but not the rest of the characters.

A. I can read most of them with the exception of one or two characters which I may not know.

Mr. Bishop calls attention to the fact that it is now the usual adjourning time and that it is apparent that this old gentleman is very tired from his appearance, and ask- that we adjourn as usual, and in this connection beg- to suggest that these Tablets be kept out of the sight of the Witness until the Cross-examination is resumed, so that our motive for asking for the usual order may not be misconstrued.

271 Mr. Opisso only begged to be allowed before adjourning to make the following question to the witness showing him the front external part of Tablet "Plaintiffs' Exhibit No. 3." Will you please read now the characters appearing on the face of Table Exhibit No. 3 of the Plaintiffs.

Mr. Bishop withdraws his request and begs the Vice-consul to continue the taking of testimony as requested.

With the consent of the Vice-Consul, Witness answers:

Witness read the Chinese characters appearing on Tablet Plaintiffs' Exhibit No. 3, as follows:

Tablet of Mr. Bi (Mi) Git, surnames Sy, and Mrs. Sun Niu Yap, married into the family of Sy. Filial sons Yoc Ling and Yoc Boon (Witness stating after reading that this Yoc Boon is now dead.)

Afternoon session adjourned at 4:15 P. M. September 12th, 1906,  
9:30 A. M. September 13th, 1906.

Morning Session, 9:45 a. m., September 13th, 1906.

All parties appearing as heretofore.

Continuation of cross-examination of SY PENG by Messrs. SUMULONG and OPISSO:

Whereas the Attorney for the Plaintiffs in offering Plaintiffs' Exhibits Nos. 1, 2 and 3 in evidence has not furnished or presented a translation of the same, and whereas the Attorneys for the Defendants need a translation of said exhibits of the Plaintiffs marked Nos. 1, 2, and 3, respectively so as to cross-examine the witness on the same, the Attorneys for the Defendants respectfully request the Vice-Consul to instruct the Official Interpreter of this Consulate, also acting as the interpreter in the taking of the Deposition in the present case to translate now said tablets, Plaintiffs' Exhibit Nos. 1, 2, and 3, so that the attorneys for the Defendants be able to exercise their right as hereinbefore stated which otherwise they could not exercise if such translation is not given now.

Mr. BISHOP: Do I understand that such Official translations are to be made a part of the Record at this time?

Mr. OPISSO: Yes.

Mr. BISHOP: We join in the request.

The Vice-Consul in accordance with the request of the Attorneys for the Defendants and with the concurrence of the Attorney for the Plaintiffs instructs the interpreter to furnish a translation of Plaintiffs' Exhibits Nos. 1, 2, and 3. The same translations to be made part of this record.

Adjourned at 10 A. M. until 2 P. M. to allow the attorneys for the Defendants to have time to have translations made of the Chinese writings on Plaintiffs' Exhibits Nos. 1, 2, and 3.

273 Afternoon Session, 2 p. m., September 13th, 1906.

Continuation of the cross-examination of SY PENG by Messrs. SUMULONG and OPISSO:

Mr. Opiisso and Mr. Sumulong beg to state that the translation into English from the Chinese characters appearing respectively on Plaintiffs Exhibits Nos. 1, 2, and 3 have been made by Mr. Li Ung Bing the Official Interpreter of the Consulate of the United States of America, Amoy, China, but the Defendants reserve their Right to introduce said translation in evidence until the termination of the taking of the deposition of the Plaintiffs' Witnesses in this case.

Mr. BISHOP: In view of the fact that this case was adjourned this morning to allow Counsels for the Defendants to procure the translations in question with the distinct statement that they were to be used immediately in the Record and in view of the fact that the Counsel for the Defendants now indicate that they do not intend to carry out such understanding we withdraw our conformity to the same.



Messrs. SUMULONG and OPISSO: What we stated this morning was that, as the witness had been testifying in regard to the Tablets, Plaintiffs' Exhibits Nos. 1, 2, and 3, without the Defendants having a translation of those Tablets made into the English language so as to be able to ascertain the accuracy or non-accuracy of the

Witness's testimony regarding the aforesaid Plaintiffs' Exhibits Nos. 1, 2, and 3 the Defendants moved that an official translation of those Tablets be made, so as to be able to exercise their right to cross-examine the witness with full knowledge of the contents of those tablets, and the Attornies for the Defendants believe that no better knowledge can be had of the Contents of those tablets, Plaintiffs' exhibits Nos. 1, 2, and 3, than the interpretation and translation made by the Official interpreter of this Consulate. This afternoon we have stated that we intend to present these official translations as Defendants' evidence but will do so only at the termination of the Depositions of Plaintiffs' Witnesses. However, if Plaintiff *has* no objections that said translation be introduced as evidence, as part of the testimony of the Witness Sy Peng at the present moment, we have no objection to introduce said translation not then as Defendants evidence but as part of the cross-examination of said Sy Peng.

Mr. BISHOP: We consented to an adjournment this morning with the distinct understanding that an official translation of these tablets should be made and made part of the Record, not only as a part of the cross-examination, but for the purpose of assisting Attornies for the Defendants in cross-examining this Witness notwithstanding the fact that Attornies for Defendants as well as Attorney for Plaintiffs have, sitting at their sides, Chinese Interpreters. Now, it is a matter of indifference to us as to whether Attornies for the Defendants carry out this understanding or not as we intend to offer this very translation in evidence if they do not and we again renew our objection to Counsel for the Defendants putting long talks into this Record at our expense.

Question. Who married first, you or Sy Quian?

A. Sy Quian married first.

Q. Why is it then that in your direct examination you stated that the reason why you went to Sy Quian's marriage Feast was because you had invited him to your marriage feast?

A. I meant I had to invite him when I married and he had to invite me when he married.

Q. On what day of the marriage ceremony did you see the Bride?

A. It was three days after the day of marriage when the couple paid respects to the Ancestors Tablets and gave a Tea Reception I saw her then and in fact there were hundreds of others who also saw here.

Q. Did that ceremony you have just referred to take place after the ceremony held at the groom's house on the first day of the wedding feast when they prayed to Heaven and so forth at the groom's house?

A. The ceremony of paying respects to the Ancestors' Tablets

took place on the third day after the marriage and the tea reception on the day following, we were invited then as well as others.

Q. Was that ceremony of paying respects to the Bride and worshipping the ancestral Tablets the only ceremonies you went to and is that the time you saw the Bride?

276 A. I was invited on the first day when they worshipped the Heavens and so forth. I saw the Bride then but when the Reception was given it was the time for seeing the Bride as it is called in China, and I was present also that day.

Q. Is it not true that to the ceremony at the house of the groom and to that at the house of the Bride on the first and 12th days respectively only the nearest and closest relatives of the groom and bride's family are invited on the respective days?

A. The custom in my village on such occasions is to invite about hundreds of the relatives, should persons other than relatives make presents on these days they must be invited too.

Q. Did you know the Mediators of Sy Quian's marriage?

A. There was only one, Yap Hong; he died long ago.

Q. Why do you know that Yap Hong was the Mediator?

A. By reason that Yap Hong was seen in the special chair set apart for the Mediator in the procession that accompanied the red chair which was sent to receive the bride, and also by the reason that Yau Hong came with the bride and performed all the duties required of a mediator.

Q. Have you been in absolutely all the ceremonies and feasts of the wedding of Sy Quian?

A. I knew of all the ceremonies but was not invited to all the feasts I was also present though on the 12th day after his marriage at the feast which was given in honour of the brother (or brothers?) of the Bride.

277 Q. If you then were not present at all the ceremonies of Sy Quian's wedding how can you assert that all those ceremonies took place so minutely described by you in your answer, covering pages 96, 97 and 98 of this Record?

A. As I have stated time and again Sy Quian and myself were very good friends since we were boys Sy Quian went abroad first but I stayed at home. On his return I spent several days with him helping him make the necessary arrangements for his wedding. I made trips to Amoy on his behalf to get certain necessary things and this is the reason I can know so minutely of his wedding ceremonies.

Q. How long did Sy Quian stay in Am Thau after the birth of his second son?

A. About a year, I mean after the birth of his second son.

Q. You stated in your direct testimony that the second son was born to Sy Quian in the second year of his marriage. Do you then mean to say that Sy Quian stayed here three years in China and then returned abroad?

A. He stayed in China about three or four years, it might be a little more than 3 years I do not remember exactly.

Q. Then how did you in your direct testimony state so precisely that Sy Quian had stayed in China at least 4 or 5 years?

A. I know he stayed some time after the second son was born it might be three years, four years or more but I cannot remember it.

Q. You state that you came to know about the birth of the two children Sy Bi (Mi) Bo and Sy Bi Git to Sy Quian and Yap Puan by reason of the fact that you were sent those cakes at the time of their birth, is this the only reason why you know of the fact of the birth of those children?

A. At the times the cakes were sent me and others we went to congratulate him and that is why I came to know the birth of his two sons, which was in fact a matter of general knowledge over the village.

Q. Is it the custom to have the tablets made one year after the death of the party to whose memory it is devoted?

A. The custom is as follows:—When the remains of a deceased person are taken away from the house whether to be buried or otherwise a tablet is at once prepared, but this tablet must be in the house a year before it is taken and put inside of the family shrine.

Q. Did you see when these tablets, Plaintiffs' exhibits 1, 2, and 3 were made after the death of the respective persons mentioned therein?

A. I did not see the preparation of these tablets.

Q. When did you see them for the first time?

A. Several weeks ago, when Yoc Ling invited me to see them before they were taken out of the shrine.

Q. Will you please write your name and the name of the village of Am Thau in Chinese characters?

Witness writes the following characters in answer to the question.

(Chinese characters separated into two parts by lead pencil mark.)

Afternoon session adjourned 4 P. M. September 13th, 1906, until 9:30 A. M. September 14th, 1906.

Morning Session, 10:00 a. m., September 14th, 1906.

All parties as heretofore appearing.

Continuation of the cross-examination of SY PENG by Messrs. SUMLONG and OPISSO:

Question. Was there any body present at the time the Tablets were taken from the shrine to be brought down here?

A. Yoc Ling's elder sister-in-law and younger sister-in-law.

Q. No one else?

A. All the members of the family were there that day.

Q. Who were those members of the family?

A. And two grand-aunts-in-law.

Q. How many people in all?

A. Five or six. There were some children besides.

Q. Will you tell us their names. Each and every-one.

A. Yoc Ling and his wife, two sisters-in-law and his elder sister-in-law.

Q. What we desire to know is the name of the parties you  
280 have just mentioned.

A. I do not know the names of the women I have referred to. They are known as the wife or sisters-in-law respectively of Yoc Ling among the family.

Q. Did you not state here that you knew all the family and that you all were relatives?

A. I did not say that I knew the women members of my clan; our custom is they are known as the wives or sisters of the men.

Q. When did you see Sy Quian for the first time in Manila?

A. About 40 years ago.

Q. Where?

A. In Manila.

Q. In what place in Manila?

A. The Chinese name of it is Ong Mi, or Santo Cristo.

Q. How old was Sy Quian then?

A. He was over 40 years old.

Q. Had Sy Quian at that time already come to China for the first time? when you saw him in Manila?

Objected to as being indefinite and uncertain and ambiguous.

Witness answers. He had been home for his first time I saw him long after he had returned from Manila.

Q. Did you go to Sy Quian's house on that occasion?

A. Yes. He lived with Sy Tai and that place is not far away from the store I had interest in, on the opposite side of the street.

Q. What was the name of the Store you had some in-  
281 terest in?

A. I don't remember the name of that store now, but I remember its location; Sy Tai's place was on one side of the street while mine was on the opposite side of the street.

Q. Besides Sy Tai who were the other people who were living with Sy Quian, or were there any other people living with him?

A. No. No others.

Q. Sy Tai's store was it the place where Sy Tai and Sy Quian also lived?

A. It was a business house. Sy Quian lived on the 2nd floor. Sy Quian moved the next time to Ao Goya, if you want the name you can ask Yoc Ling, and the next time to Toa Lang Hang. I was a broker going back and forth, and had no time to learn Spanish.

Q. How long after you saw Sy Quian in Sto. Cristo did he move to Au Goya?

A. Three or four years.

Q. How long after he moved to Au Goya did Sy Quian move to Toa Lang Hang?

A. Eight or ten years I think.

Q. Did you go up stairs when you went to Sy Tai's store?

A. Very seldom I went up there. Only one or two times.

Q. Have you been in the houses where Sy Quian lived both in Au Goya and Toa Lang Hang?

A. Yes. I have been to Sy Quian's house in Toa Lang  
282 Hang. Sy Quian was in the habit of sitting in front of his house when he was at leisure. It was my business then to go around and collect letters, sometimes I found him in front of his house and went in and had a chat with him.

Q. With whom, if any, was then Sy Quian living at those houses?

A. Some Philipinos and Philippine women whom I did not know.

Q. When you wanted to see Sy Quian when you went to Manila how did you ask for him?

A. I went there to carry the message of his wife in China to him as I have stated the other day. Some times I went there to see him, to take money which he wanted to send home.

The Defendants move that the answer be stricken out for the reason that it is not at all responsive to the question and wholly irrelevant.

Q. How did you ask for Sy Quian when you wanted to see him? We mean the first time you went to Manila.

A. When I first went to Manila, the place I stopped at as I have stated was not far from his, I saw him when he came out and when he went in, and, in fact, did not have to ask for him.

Q. When did you see Sy Quian last in Manila?

A. More than ten years ago, I mean more than 15 years ago.

Q. After having seen Sy Quian in Manila for the last time did you ever see him again here in China?

A. No. I saw him for the last time on my last trip  
283 to Manila. Now, let me see how long it was. I have never gone to Manila again since this trip. This was about 16 years ago and I have not seen him again since.

Q. How long after the last time you saw Sy Quian in Manila did Sy Quian die?

A. One or two years after I saw him for the last time he died. At the time of his death the women folk of my house paid a visit of condolence to his wife in China as was the custom.

Q. You did not go personally to call on Sy Quian's wife here in China after the time of Sy Quian's death, did you?

A. At the time Sy Quian died Sy Quian's wife in China had died long ago.

Q. Why then do you say that the women folk of your house went to pay a visit of condolence to Sy Quian's wife and children if the wife had been dead long ago?

A. No I did not mean that, Sy Quian's wife in China had been dead before Sy Quian died.

Q. About how many years, in relation to the time of Sy Quian's wife's death did Sy Quian die?

A. One or two years.

Q. Were then Sy Bi Bo or Sy Bi Git alive or dead?

A. They were dead, I mean Bi Bo and Bi Git both.

Q. How long had Sy Bi Bo and Sy Bi Git been dead, first in relation to their mother's death, then in relation to Sy Quian's death, please give the answer separately for each one of them?

A. Bi Git died first, he died before Bi Bo. In short  
284 they had been dead about ten or more years prior to the death of their mother and father, in other words I cannot remember the exact dates of their deaths especially for my age. I have had three wives, should you ask me to give the dates of their deaths I could not give it now.

Q. You said that you knew Sy Quian's wife in China and that her name was Yap Puan was she known by the same name before she was married?

A. I did not know her name before she was married, she was known as "Yap Puan" since she came to Am Thau.

Q. And when did she come to Am Thau?

A. At the time she was married to Sy Quian when the latter was 25 years old.

Q. So that the first time you ever knew or met Yap Puan was on the occasion of her marriage, is that correct?

A. Yes. In fact I could not have met her, even if I had wished.

Q. Then how do you testify here in direct examination that you had known Sy Quian's wife before her marriage, and how did you state so categorically that she was single at the time she married Sy Quian?

A. I knew that she was a virgin when she was married to Sy Quian.

Q. Do you think that Yap Paun could have had some other name besides this one you have given?

A. No. She was not known to me by that name, I always called her Quian-So (Mrs. Sy Quian).

Q. So when did you first hear or know that her name was Yap Puan?

A. At the time the guests were admitted to see the Bride I  
285 was one of the guests. We made enquiries as to her name and I knew her name then.

Q. But did you not state just a moment ago that you never knew Yap Puan by that name, but always by Quian-So?

A. Yes. Yap Puan was her name, but in addressing her I had to call her Quian-So, as a matter of courtesy.

Q. How about that house where Sy Quian lived, you said that you had been in it several times, is that correct?

A. Do you mean the house in China or in the foreign country?

A. In China.

A. Yes, I have been to that house several times. I used to buy things from Amoy for the folks, and every time of the deaths of some of the parties I have referred to I purchased coffins for them, and several times I have been invited there for different occasions.

Q. In how many houses did Sy Quian live when he was in China ever since you knew him?



A. He first lived in his old house, which was not far from my old house, I had a new house built some time later Sy Quian's new house was again close to the new house of mine. When Sy Quian's new house was being built he was not here but returned when the house was completed.

Counsel for Defendants produce the official Translation made by Mr. Li Ung Bing, the official interpreter for the Consulate of the United States of America, of Tablets "Plaintiffs' Exhibits Nos. 1, 2, and 3," and ask that the same be marked by the Vice-Consul as Defendants' Exhibit A, and be signed by him and stamped with the American Consular date stamp.

Mr. BISHOP: If Counsel for the Defendants wishes to offer this translation in evidence as part of the Cross-examination of this witness or as evidence on behalf of the Defendants we have no objection but we certainly object to Defendants asking an adjournment for the taking of these depositions at our expense, as was done yesterday, and now encumbering the Record with their statement or request which should only be done in connection with an offer of the Translation in evidence.

Q. (Showing the witness Defendants' Exhibit A.) Will you please read in succession the two Chinese names appearing the 2nd and 1st lines from the bottom of page 1 of Defendants' Exhibit A, marked respectively with a small red letter "A" and a small red letter "b," by the Vice-Consul.

Mr. BISHOP: We ask Counsel for Defendants if this so-called "Defendants' Exhibit 'A'" has been offered in evidence or as a part of the Record?

Mr. OPISSO: We at the present time intend to make this "Defendants' Exhibit A" a part of the record, after questioning the witness.

Mr. BISHOP: The question is objected to for the reason that it assumes that the Defendants have an "Exhibit A" when it appears by Counsel's statement that no such document is in the Record, or has been offered in evidence, also that the question is not Cross-examination.

287 Witness answers. Sy Yap Sy (referring to the named marked by the Vice-Consul in red ink "a"). This is Yap Puan. Witness reads the second name as "Puan Kun," this "Kun" means "Diligent" and it was the nickname given to the woman Puan, because she was very diligent in her household work.

Morning session adjourned 12:10 P. M. till 2 P. M., September 14th, 1906.

Afternoon session begun 2 P. M., September 14th, 1906.

All parties appearing as here-to-fore.

Continuation of cross-examination of SY PENG by Messrs. SUMULONG and OPISSO:

Question. (Showing the Witness Page 3 of Defendants' Exhibit "A.") Will you kindly tell us, or rather will you kindly read the Chinese characters appearing at the middle of page 3 of Defendants' Exhibit A, marked by the Vice-Consul with the small red letter "a"?

Mr. BISHOP: Objected to for the reason that no such exhibit appears in evidence, or in the record, also because it is not proper cross-examination.

Witness reads the Chinese characters as they appear on page 3 of Defendants' Exhibit A, and marked by the Vice-  
288 Consul with a red letter "a," as these Chinese characters are technical terms on the Chinese compass no translation can be given. Witness reads as follows:

Cho Kian Hiong Sung Giam Moh Sin Hun Kin Lai Sut Bien Sin.

Q. What are these characters and what do they mean?

A. These characters are, I suppose, copied from some Tablet they express the location of a grave, according to the terms as appearing on the surface of a Chinese compass, instead of saying "north," "south," and so forth, special terms are used on such a compass.

Q. Are you a geomancer?

A. What is that?

Q. A "Fung-sui" teller.

A. I am not. Sometimes I saw a Fung-Sui Teller handling a compass but I know nothing about it.

Q. Do you know the meaning of the words you have just read appearing at the middle of page 3, of Defendants' Exhibit A, marked by the Vice-Consul with a small red letter "a."

Mr. BISHOP: Objected to for the reason that no such document appears in the Record or in evidence, also that it is not proper cross-examination.

Witness answers. Owing to bad eye-sight I am not sure whether I read them correctly or not, but I think I was pretty near.

Q. What is the meaning of the words you have given as read by you from the Chinese characters appearing at the middle of  
289 page 3 of Defendants' Exhibit A, and marked by the Vice-Consul with the small red letter "a."

Mr. BISHOP: Same objection as to the last question.

Witness answers. These characters tell the directions on the compass just what they mean I do not know, the compass has 4 directions but instead of saying "north, south, east and west" they are denoted by certain technical terms, and these are what they are.

Q. How do you know that Yap Puan was the only woman that Sy Quian married?

A. I knew that from my personal knowledge. Sy Quian might have girls bought with money, but they were no wives.

Q. What was the name of the boat in which Sy Quian came here to China as a super-cargo?

A. I forgot. I knew he came home as the supercargo of a certain ship, but cannot tell the name at my age.

Q. What year did you go to Manila for the first time as a Broker, how old were you then?

A. I do not remember exactly, I was either 36 or 37.

Q. How long after Sy Quian's marriage did you marry?

A. I have to think. I married about 30 years old, or 29.

Q. How long did you say that Sy Quian stayed in Manila for the 2nd time?

A. Sy Quian came home to be married, then went to Manila again, then he came a second time as supercargo and more than ten years after that he returned again to China.

Q. How long after he went to Manila for the second time he came back to China as you say as Supercargo and how long did he stay here that time?

290 A. It was not a very long time. He went right back with the ship.

Q. Then, Sy Quian was not in China when you were married?

A. No.

Q. How then, have you said twice here, in your testimony that you invited Sy Quian to your marriage as he had invited you to his?

A. No. I did not say that. I said I had to send invitations in return, that is to say, if he had a son able to come to dinner I had to invite him, or some other representative of him, I never said I invited Sy Quian himself.

Q. How long did Sy Quian stay in China when he came as you say ten years after the time he came as Super-cargo?

A. Two or three years.

Q. Did Sy Quian have any children during those three years?

A. He did not get any son or daughter during these years.

Q. Is that the last time he was in China?

A. Ever since he went away after this time he never came home again.

Q. How long ago from now is that?

A. I cannot state for sure. I knew since this time he never came home, and died; just how long it was I cannot say, it is a long time ago. Being good friends I knew all of these events but I cannot keep trace of the dates. Sy Quian sometimes sent

291 me letters with two dollars, or four dollars and asked me to attend to business matters for him, in fact I know something of him which even his Descendants do not know.

Q. How could you then state in your direct examination with seeming accuracy and precision the times that Sy Quian went forth and came back, from China and Manila and from Manila to

China. The times that you saw him, the periods of time that he stayed in either place, his age at the different periods, the years that the children were born, the years that the children died, the dates when the grand-children were born, their different ages, and so forth. How can you explain the wonderful phenomenon of being able to state those facts with that seeming precision the first time you were asked about it, and not be able to remember them two, three, or four days, at the most five days, after you stated those facts.

A. I know Sy Quian never came home after the last time in China, as I have stated, but cannot say how many years ago, how can I at my present age?

Q. Who died first Sy Bi Bo, or Sy Quian?

A. Sy Bi Bo died first.

Q. How long before Sy Quian's death?

A. Si Bi Bo died more than twenty years ago now.

Q. How long before Sy Quian?

A. Bi Bo died more than twenty years ago now, and Sy Quian more than ten years ago.

Q. These Tablets have been made according to the custom in China, have they not?

A. Yes. On the day of the funeral the Tablet is put  
292 in a special chair and took part in the funeral procession, nothing was in this tablet, I mind you, but when the coffin was ready to be entered a man is asked to put a dot on the tablet. After this, a day is chosen when the name, location, of the grave and so forth is written on it, this is the custom prevailing here.

Q. Will you please read in succession the Chinese characters appearing at the right hand side, at about the middle of triple page 74, of this Record and marked by the Vice-consul respectively with numbers 1, 2, and 3, written with red ink, along side of it. Read first those in page 74 No. 1.

Witness reads. Sy Chiao Niu.

Q. Read those at page 74 2.

Witness reads. Sy Hui Niu.

Q. Read those at page 74 3.

Witness reads. Sy Hui Niu.

It is agreed by Counsel on both sides that the triple page 74 shall be lettered "74 a", referring to the first copy, "74 b" referring to the 2nd copy, and "74 c", referring to the 3rd copy. And that the numbers appearing in red ink at about the middle of each one of these pages are to identify the Chinese characters appearing on the right hand side, at about the middle of said pages. And that all questions appearing here-to-fore made referring to these pages as "74-1" "74-2" and "74-3" be read as to referring to pages "74-A1", "74B2" and "74-C3".

The Attornies for the Defendants now introduce the Translations  
293 of Tablets marked Plaintiffs' Exhibits 1, 2, and 3, made by the official Interpreter of this Consulate into the Record and ask that the same be made part of said record as part of the

cross-examination of Sy Peng in this case, which translation has been marked for the purpose of identification as Defendants' Exhibit A, signed by the Vice-Consul Mr. Rea Hanna, and sealed with the Seal of the Consulate, and stamped with the American Consular date stamp, dated September 14th, 1906, and which translation is signed and certified by the official interpreter of the American Consulate, Amoy, China, Mr. Li Ung Bing.

Mr. BISHOP: No objection, and we now withdraw our former objection based upon our contention that this document was not part of the record and had not been offered in evidence, also that such questions were not proper cross-examination.

Mr. OPISSO: That is all.

Afternoon session adjourned at 4 P. M. September 14th, 1906, to 9:30 A. M. September 15th, 1906.

Morning Session, 9:45 a. m., September 15th, 1906.

Redirect examination of SY PENG by Mr. BISHOP.

All parties appearing as here-to-fore.

Question. In Defendants' Exhibit "A," translation of Plaintiffs' Exhibit No. 1, the first name appears as "Mr. Sy Tiong Quian", state if you know who this party is?

294 Defendants object because the Tablets speak for themselves, and the witness' testimony is not the best evidence.

Witness answers. This is the identical person here-to-fore referred to as S Quian.

Q. State, if you know, what is the meaning or signification of the middle part of the name, "Tiong"?

Defendants object on the ground that the question is incompetent.

Witness answers. This second name "Tiong" is the name given by the father of Sy Quian to all his Sy Quian's brothers, that is to say, this character is the common character that appears in the name of each and every one of Sy Quian's brothers, this is in order to show that they are of the same rank, in reference to blood relationship, that is why both Sy Tai and Sy Hien have for their names Sy Tiong Tai and Sy Tiong Hien. In Manila Sy Tai was called "Sy Tai" but not "Sy Tiong Tai". It is the same with Sy Hien.

Q. State, if you know, what relation, if any, was this man who is referred to in Defendants' Exhibit "A", being a translation of Plaintiffs' Exhibit No. 1, as Mr. Sy Tiong Quian to the Sy Quian and the Vicente Ormero Sy Quian whom you have here-to-fore referred to in your testimony.

A. Sy Tiong Quian is the identical person as I have referred to both as "Sy Quian" and "Vicente Ormero Sy Quian" Vicente Ormero is his baptismal name, he was known in Manila by that name to Chinese here—they cannot and do not know Spanish—call him Sy Quian. Sy Tiong Quian was his proper "Family name."

295 Q. State of you know what relation if any the Sy Tiong Quian mentioned in this exhibit (Defendants' Exhibit "A") to the Sy Hien or Sy Quian Hien whom you have referred to on pages 91 and 92 of this record.

Defendants object.

Mr. BISHOP: Question withdrawn. State, if you know, what relation, if any, Sy Tiong Quian, mentioned in this exhibit, (Defendants' Exhibit "A") to the Sy Hien or Sy Quian Hien to whom you have referred in your previous testimony?

Defendants object on the ground that the witness has not referred to any Sy Quian Hien and further-more because the question is leading, incompetent, irrelevant and immaterial.

Witness answers. Sy Hien is the younger brother of Sy Quian, the brother next to Sy Quian in age was Sy Tai, to whom Sy Hien comes the next.

Q. What was the name of the youngest brother of the Sy Tiong Quian, mentioned on page 1 of the Defendants' Exhibit "A"? State if you know.

Defendants object because the question is incompetent, irrelevant and immaterial.

Witness answers. The youngest was Sy Tiong Tiam, but he died a long time ago.

Q. State, of you know, what relation, if any, was the Sy Tiong Quian, mentioned on page 1 of Defendants' Exhibit "A", to the man whose name you have written in Chinese characters on page 92 of this Record.

Same objection as before.

296 Witness answers. This man, Sy Hien, (Witness pointing to the name in Chinese characters on page 92 of this Record,) is the third younger brother of Sy Tiong Quian.

Q. State, if you know, what relation, if any, the Sy Tiong Quian, mentioned on page 1 of Defendants' Exhibit "A", is to the Sy Bi (Mi) Bo and Sy Bi (Mi) Git whom you have here-to-fore mentioned in your testimony.

Defendants object on the ground that the question is incompetent.

Witness answers. This Quian was the father of this Sy Bi (Mi) Bo and Sy Bi (Mi) Git.

Q. State, if you know, what relation, if any, the woman, referred to on page 1 of Defendants' exhibit "A", under the name of Mrs. Yap Puan (Alias) Chi Kien, and as Sy Yap Si, (her virgin name) Puan Kien, was to the Mr. Sy Tiong Quian, also mentioned in the exhibit.

A. She was the wife of Sy Tiong Quian. Sy Yap Si give the surname of her husband and of her own family being put together, Yap Puan was her name, Kien means "diligent". It was



her nick-name given to her because she was diligent in household matters.

Q. State, if you know, what relation, if any, this woman was to the Sy Bi (Mi) Bo and Sy Bi (Mi) Git whom you have mentioned in your previous testimony.

A. She was the mother of Sy Bi (Mi) Bo and Sy Bi (Mi) Git.

Q. State, if you know, what relation, if any, there was between the man and woman referred to on page 1 of Defendants' exhibit "A", and the 4 persons whose names you have written on Chinese characters, to wit, the bottom of page 76 and 2 at the top of page 77.

Defendants object on the ground that the question is incompetent.

Witness answers. Father and Mother—oh no, (Witness commenced to read in Chinese names as appearing on page 76 and 77 as follow:—Sy Yoc Chai, Sy Hui Niu, Sy Yoc Lieng, and Sy Chiao Niu. They were the grand-father and grandmother of these four parties.

Q. State, if you know, what relation, if any, the Mr. Bi or Mi Bo, and the Mrs. King Niu mentioned upon pages 2 and 3 of Defendants Exhibit "A", are to the Sy Bi (Mi) Bo and Sy Bi (Mi) Git whom you have here-to-fore mentioned in your direct and cross-examination.

Defendants object on the ground that the question is incompetent.

Witness answers. King Niu was the wife of Bi (Mi) Bo. (Witness pointing to the name in Chinese characters appearing on the third line from the top of Defendants' Exhibit A on page 3, as King Niu) and the Chinese name appearing about the middle of page 2 of Exhibit "A" as "Bi Bo".)

Q. State, if you know, what relation, if any, existed between these two parties last named, and the Sy Bi (Mi) Bo and Sy Bi Git referred to in your direct, and cross-examination.

Defendants object; the question is practically a repetition of the previous one and the witness has already answered to the same, it is incompetent too.

298 Mr. Bishop: I repeat substantially the same question, as it was not fully answered.

Witness answers. Si (Mi) Bo and King Niu, the parties I have referred to were the son and daughter-in-law of Quian and Puan.

Q. State, if you know, what relation, if any, exist between the man and woman referred to on pages 2 and 3 of Defendants' exhibit "A," and the two persons whose names you have written in Chinese characters at the bottom of page 76 of this Record.

Defendants object on the ground that the question is incompetent.

Witness answers. (Witness reading the names at the bottom of page 76) Sy Yoc Chai and Sy Hui Niu were the grand children of Quian and Puan.

Q. And what relation, if any, to the man and woman mentioned on pages 2, and 3 of Defendants' Exhibit "A"?

Mr. OPISSO: Same objection.

Witness answers. These two, (Witness pointing to the names at the bottom of page 76) are the children of King (pointing to the name that appears on the third line from top of page 3 of Defendants' Exhibit "A.")

Q. What relation, if any, to the man's name Mr. Bi or Mi Bo appearing on page 2 of this record?

Mr. OPISSO objects; the question is leading and incompetent.

Witness answers. Bi (Mi) Bo (Witness pointing to the name on page 2 — Defendants' Exhibit "A") is the father of Sy Yoc  
299 Chai and Sy Hui Niu. (Witness pointing to the names in Chinese characters at the bottom of page 76 of this record.)

Q. State, if you know, what relation, if any, the Sy Bi or Mi Gi and the Mrs. Sy Yap Sung Niu, whose names appear in Defendants' Exhibit "A" (Translation of Plaintiffs' Exhibit 3) to the Sy Bi (Mi) Git and his wife whom you have referred to in your cross-examination.

Mr. OPISSO: Same objection.

Witness answers. Yap Sung Niu (pointing to the name in Chinese characters appearing on the 3rd line from the bottom of page 3, Defendants' Exhibit "A") is the wife of Bi (Mi) Git. (Witness pointing to the name appearing on the line above said line.)

Q. State, if you know, what relation, if any, this man Mr. Sy Bi or Mi Gi referred to on page- 3, and 4 of Defendants' Exhibits "A," is the Sy Bi (Mi) Git whom you have referred to in your direct and cross-examination.

Mr. OPISSO: Same objection. Besides the question is a repetition.

Mr. BISHOP: I repeat my question in substance, as the witness failed to fully answer.

Witness answers. Sy Bi (Mi) Git, whom I have referred to in my testimony, is the identical person as the person known by this name (pointing to the name appearing on the 4th line from the bottom of page 3 — Defendants' Exhibit "A").

Q. State, if you know, what relation, if any, existed between this man and woman, whom we have just referred to at the bot-  
300 tom of page 3, Defendants' Exhibit "A," and the two names which you have written in Chinese characters at the top of page 77.

Mr. OPISSO objects as the question is leading and incompetent.

Witness answers. The parties whom we have referred to on said page 3 are the father and mother of the two persons whose names appear on top of page 77 of this Record.

Q. In your cross-examination as appears upon — 116 of this Record, you were asked "When did you see them for the first time," indicating or referring to the 3 Tablets marked Plaintiffs' Exhibits

1, , and 3, to which you answered, "Several weeks ago, when Yoc Ling invited me to see them before they were taken out of the shrine," do you wish to make any change or correction to that answer, if so state what.

Mr. Opiiso objects to the question, it is decidedly leading and the best comment on the question is its reading, furthermore, this is not the time for the witness to make any corrections of his own testimony. Corrections of this kind, to be valid, must be spontaneously made by the Witness without the suggestion of any one else.

Mr. BISHOP: Question withdrawn without being interpreted to witness. When did you see these three tables for the first time? That is, Plaintiffs' exhibits 1, 2, and 3.

Witness answers. At the time the funerals took place after the deaths of the respective parties therein referred to, some of these Tablets are more than twenty years old, and some more than ten.

301 Q. In view of this answer and your answers in direct examination what have you to say about your answer to the question, "when did you see them for the first time," and your answer thereto, "Several weeks ago—appearing upon page 116 of this Record.

Mr. OPISSO: Defendants again object to the question. The Record speaks for itself, and we renew here the remark we made to the question before the last.

Witness answers. In answering that question in cross-examination yesterday, I meant the first time I saw them, immediately prior to their transportation which was several weeks ago.

Q. Can you write in Chinese characters the name of Sy Tai, whom you referred to, in your cross-examination, and again in your redirect this morning, if so, do so.

Mr. OPISSO: Defendants object because the request is irrelevant and immaterial.

Witness writes as follows: (Chinese characters.)

Q. Do you know whose business Sy Quia (Vicente Ormero Sy Quian) conducted in Manila?

A. Defendants object on the ground that the question is immaterial.

Witness answers. The first time the business he conducted in Manila was that of his Uncle, by the time I arrived at Manila, this uncle of his had died and he and Sy Tai both conducted the same business of his uncle, Sy Him.

Mr. BISHOP: That is all.

302 Recross-examination by Messrs. SUMULONG and OPISSO:

Question. Where are the Tablets of Sy Bi (Mi) Bo and Sy Bi (Mi) Git?

A. They are there. (Witness pointing to the Tablets on the Consul's table, being the Tablets marked "Plaintiffs' Exhibits 1, 2, and 3.")

Q. Why is it that when we asked you yesterday when you had seen the tablets first you told us that it was a few weeks ago only.

A. I thought you meant when I saw them the first time prior to their being taken down here.

Q. You stated yesterday that at the time of carrying the body to be buried the tablets go behind the coffin and that once at the grave the tablets are marked, is not that so?

A. Yes. After that when the letters were written on it.

Q. You said that you had not seen the tablets being written upon, is it not?

A. Yes. I was not there when they were written on. The custom is they are to be written on three or four days after the day they are marked, this day must be a specially chosen day, good and lucky day, I mean.

Q. If the Tablets had not been written upon, how could you say whose tablet it was, I mean yourself, how could you yourself?

A. I can identify the Tablets as the ones I saw in the funeral procession.

303 Q. By what means?

A. I saw these tablets at the funerals, then when they were to be taken down to Amoy, for the purpose they are here for, Yoc Ling asked me to go and help him take them out of the shrine.

Q. Then, the second time you saw these tablets was about 20 years after the funeral, when they were not yet written upon, and in fact then the first time that you read the tablets and found out whose tablets they were, was only a few weeks ago, when, at the invitation of Sy Yoc Ling, you went to take them out from the shrine to be brought down here to Amoy, is not that correct?

A. Yes. Yoc Ling invited me to go there at the time these tablets were to be taken out of the shrine because it was a very important family affair and he wanted me to be the witness just the same as if he were going to transfer some real estate, on which occasions I, as an elder, am always required to be present.

Morning session adjourned until 2 P. M.

Afternoon Session, 2:15 p. m., September 15th, 1906.

All parties appearing as heretofore.

Continuation of the re-cross-examination of SY PENG by Messrs. SUMULONG and OPISSO:

304 Question. Have you read the Tablets, Plaintiffs' Exhibit- 1, 2, and 3, before taking them out to be brought down here and before testifying in this case?

A. Yes, I have. On the anniversaries of the days of death of the persons therein referred to I have been invited to dinner, and I saw and read them on such days.

Q. After taking them out of the shrine and before testifying in this case did you read those tablets?

A. Yes. Sy Yoc Ling was afraid he might take the wrong ones, that is why he invited me there, and I read them carefully.

Q. So that you could correctly write the names, and the real names, of the parties whom those tablets refer to?

A. I cannot write all the characters as they appear thereon, I may make mistakes in one or two of them.

Q. So that the errors you have committed or that you might have committed are only in detail, but do not affect the sound and the exactness of the real name of the parties appearing on the tablets?

A. I can write the names.

Q. But you do not answer the question. What we want to know is that if the errors you may have committed in writing those names are only as regards to details, but that they do not effect the exact name of the parties appearing on the face of those tablets, and inside of the same.

A. They do not effect the names as appearing on the face 305 and the inside of the Tablet. Having had no occasion to handle a pen for about thirty years I might have made mistakes in a number of strokes in the characters.

Mr. OPISSO: That is all.

Mr. BISHOP: That is all.

Mr. OPISSO: Now, we desire to ask the Vice-Consul to state that this witness before giving his testimony in the present case has been sworn only in accordance with the regulations for the United States Consular Courts in China, issued by Anson Burlingame Esqre. Minister Plenipotentiary and Envoy-Extraordinary of the United States of America to the Empire of China, at Peking, on April 23rd, 1864, and in pursuance of section 5th of the Act of Congress of the United States of America, approved June 22nd, 1860, Entitled "An Act To Carry into effect certain provisions in the Treaties between the United States, China, Japan, Siam, Persia and other countries, giving certain judicial Powers to Ministers and Consuls, or other functionaries of the United States in those Countries, or for other purposes," and also, the Section and Chapter under which this witness has been sworn.

Mr. BISHOP: It will be noted that these Depositions are taken under a Commission which is a part of this Record, and that the Record shows the wording of the Oath and the manner in which it was administered. We will also call the Hon. Vice-Consul's attention to Section 369 of Act No. 190 of the Philippine Commission, which is as follows:

306 "Every witness giving a Deposition shall take an Oath that the deposition by him subscribed contains the truth, the whole truth, and nothing but the truth, and the authority taking the deposition shall certify that such oath has been administered." Which is of the same purport as Form No. 4 Page 19 of the Regulation for the United States Consular Courts in China. We would also call attention to Section 362 of Act 190 of the Philip-

pine Commission and now ask that this Deposition be carefully read to the Witness by the Sworn Interpreter and corrected by the Witness in any particular that he so desire-, and then subscribed to by the Witness and sworn to as provided for by Section 369 of the above-referred-to Act. And we would also be pleased to have the Vice-Consul state in the Record what Oath, if any, is administered to witnesses both Christians and other-wise, in the Mixed Court of Amoy, in which Court he has sat at times.

In conformity with the request of the Attornies for the Defendants the Vice-Consul states that the witness, Sy Péng, was sworn only through the interpreter in Chinese, the language the witness understands, according to the wording on page 29 of this Record, that wording being authoriezd in Form 4, page 19 of the Regulations, mentioned above by the Attornies for the Defendants; which are the last regulations issued for the guidance of Consular Courts, Chapter XIII Section 75 of these Regulations states: "Oaths shall be administered in some language that the witness understands and Section 76 states "not Christians—A witness, not a Christian, shall be sworn according to his Religious belief" and as an  
307 investigation found no oath according to the Religious Belief of the Chinese the practice has been in vogue in this Consulate to swear Chinese by the wording mentioned, adding the caution, that if they swear falsely they are liable to the pains and penalties of perjury.

In conformity with the request of the Attorney for the Plaintiffs the Vice-Consul states that while sitting with the Chinese Magistrate in the Mixed Court of Kulangsu, Amoy, China, he has never witnessed the administering of an oath, in any of the Cases in which he has sat, as all testimony was admitted without Oath.

The Vice-Consul directs the Interpreter Mr. Li Ung Bing to read an interpretation of Sy Peng's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the interpreter, and the Witness asks to make two corrections which are as follows:

(1) To change the third answer on Page 64 of this Record from "When he was over 40 years old" to read "When he was over 30 years old."

(2) To change the first answer on Page 104 of this Record from "..... The year of the rat," to read "..... The year of the Pig."

After the foregoing declaration had been read and interpreted to the witness by Mr. Li Ung Bing, interpreter for the taking  
308 of the depositions, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having corrected it in the two instances above noted, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury,"



He stated that he approved the same and that the same was correct and signed it in Chinese characters.

(Chinese characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, in China, certify that the preceding is the deposition given before me on the 6th, 7th, 10th, 11th, 12th, 13th, 14th, and 15th of September, 1906, by the witness, Sy Peng, who before giving his testimony, took the prescribed oath to tell the truth, and after having his testimony read to him, and having been informed of his right to correct it in any particular if he desired, and having corrected it in the two instances above noted, and having been cautioned, that if his testimony is found to be untrue, he is liable to the pains and penalties of perjury, signed his name in Chinese characters on finding it to be correct.

309 I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is a faithful expression of the testimony of the Witness.

I also certify that the witness after subscribing the same, took oath that the deposition subscribed by him contained the truth, the whole truth, and nothing but the truth.

In witness whereof, I have hereunto subscribed my hand and affixed the Seal of this Consulate on this 15th Day of September, 1906.

(Sgd.)

[CONSULAR SEAL.]

REA HANNA,  
Vice-Consul.

Morning Session, September 17th, 1906, 9:45 a. m.

Plaintiffs call as their third witness a Chinese woman Lim Chio.

LIM CHIO sworn through Interpreter Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:—

"You do solemnly swear that the evidence you will give in this case shall be the Truth, the whole Truth, and nothing but the Truth. So help you God."

Defendants move that in addition to the Oath about to be administered to the Witness for the Plaintiff, according to the rule of this Consulate, that this Witness be also sworn in the Chinese way, on the head of a white Rooster, cut by the witness herself at the time of giving her testimony, and taking her Oath.

310 Mr. BISHOP: Objects for the reason that no such Oath or formality is known to the laws of the United States, Philippine Islands, or China.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the Witness than the one by which he now swears her.

The Defendants except to the ruling of the Vice-Consul.

LIM CHIO sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Question. What is your name?

A. My surname is Lim, and I have been married into the Yap family.

Q. State your name in full.

A. Lim Chio.

Q. Where do you live?

A. In Lau Poan.

Q. What is your occupation.

A. I have no particular occupation, I am an old woman looking after the family.

Q. How old are you?

A. 77 years old.

Q. How long have you lived in Lau Poan village?

A. A very long time, ever since I was married.

Q. Where did you live before you were married?

A. Before I was married I lived in my old Home in Tung Bin.

311 Q. Are you now married, or a widow?

A. I am a widow, my husband having died more than 20 years.

Q. When were you married?

A. When I was 17 years old I was married into the Lau Poan village.

Q. Whom did you marry?

A. I married Yap Su.

Q. Did you know a woman by the name of Yap Puan Niu?

A. Yes, I did.

Q. Where did you first know her?

A. At the time of my marriage. She lived in the upper house, and she acted on the day of my marriage as my maid.

Q. What do you mean by the "Upper house"?

A. I meant the next house to mine.

Q. How far was that house from the house you lived in?

A. Very close together, next door, in fact.

Q. How long had you known Yap Puan Niu before you were married?

The Defendants object to the question, because it is leading.

Question withdrawn.

Q. Did you or did you not know Yap Puan Niu before she acted as maid at your marriage?

A. I did not know her before she acted as my maid when I was a bride.

Q. How long had you lived in Lau Poan before you  
312 were married.

The defendants object on the ground that the question is leading.

Witness answers. Before I married I never lived in Lau Poan.

Q. Where did you live before you were married?

A. I lived in Tung Bin.

Q. When you first knew Yap Puan Niu, state, if you know, whether she was married or single?

Defendants object because the witness is incompetent to answer the question.

Witness answers. She was single.

Q. What dialect do you talk?

Question withdrawn.

Q. Do you speak the Amoy Dialect?

A. Yes.

Q. Do you know whether or not Yap Puan Niu was married?

Defendants object because the question is incompetent.

Witness answers. She afterwards married Sy Quian.

Q. After she acted as your maid at your marriage did she change her marital status.

Defendants object because the question has not only been answered by the Witness, but also because it is incompetent.

Question withdrawn.

Q. You stated that Yap Puan Niu was single when she acted as your maid, state, if you know, whether or not she subsequently became a married woman.

313 Same objection by Defendants.

Witness answers. The next year after that she married.

Q. Whom did she marry?

Same objection by the Defendants.

Witness answers. She married Sy Quian of the Am Thau village.

Q. Where did you live at the time Yap Puan Niu was married?

A. I lived as her neighbor.

Q. Where was Yap Puan Niu married?

A. In the Lau Poan village.

Q. How do you know that she married Sy Quian of the Am Thau village?

A. He first obtained her "Eight Characters", and he sent a red chair for her.

Q. Do you know whether or not there was a Mediator to this marriage?

Defendants object because the question is leading, and incompetent.

Question withdrawn.

Mr. Bishop desires the Record to show that in all cases where the questions are withdrawn it is before the question has been interpreted to the witness.

Q. State, if you know, who, if any, one, arranged the marriage between Sy Quian and Yap Puan Niu?

A. Yes. There was one, Yap Hong was the Mediator.

Q. How do you know Sy Quian sent a red chair for Yap Puan Niu?

314 A. I was there to help Yap Puan Niu put on the Bridal suit and assisted her into the red chair.

Q. State, if you know, whether this man Yap Hong was present at the time of the coming and departure of the red chair.

Objected to by the Defendants that the question is leading.

Witness answers. He was with the party that came with the red chair and also departed with the red chair as the Mediator.

Q. Tell us all you know of your personal knowledge about the ceremony and marriage between Sy Quian and Yap Puan Niu.

Defendants object because no foundation has been laid for the question, and therefore it makes the same leading.

Witness answers. First Yap Hong came and obtained from Yap Puan Niu's father the "eight characters" of Yap Puan Niu, which he took to Sy Quian's. Three days afterwards he came again and told her father that Sy Quian had decided to enter into the Contract, whereupon the father went to Am Thau to make enquiries. He found out that Sy Quian was in every way satisfactory, so he consented to marry his daughter to him. On the chosen day Sy Quian sent the bethrothal money and a day later was set for the marriage. On the day of Bethrothal, as it is called, a lot of presents were received at the house of the future Bride, such presents consisting of sugar-candies, cakes, money, bangles, pieces of silk

315 and cloth and so forth, and so forth. Invitations were sent out for the neighbors, relatives and friends to meet the Mediator at the house. In the afternoon of the same day return presents were sent away consisting of cakes and Chinese Breast-pieces and other usual things to the other side. Then two days previous to the marriage the Mediator brought over the Bridal suit, hat, and so forth. On the day of marriage the Bride was carried in a red chair carried by 4 coolies, accompanied by a "Brother," the Mediator, and the party left the house. On the 3rd day after the marriage the brother of the Bride went to Am Thau to make a call on the Groom with the usual presents, and on the 6th day invitations were sent for the newly married couple to visit the Bride's own Home. On the 12th day the newly married couple came. They worshipped the Ancestors' tablets in the house, the Father and other relatives of the Bride, and returned in the evening with the usual presents they had received on this visit. A feast was also given that day. The regular marriage ceremony ended there. Threafter Sy Puan Niu and Sy Quian made several visits to her old house, but these were no part of the ceremony.

Q. About how often, or upon what occasion, would Sy Quian and Yap Puan Niu return to your village, or rather to the Bride's old Home?

A. Whenever there was a special joyous occasion, in other words, whenever there were theatrical entertainments.

Q. Upon these occasions how did Sy Quian treat Yap Puan Niu?

316 Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Sy Quian came and took Yap Puan Niu away—the rest I do not remember.

Q. How long did Sy Quian remain in Am Thau after his marriage to Yap Puan Niu?

Defendants object on the ground that the question is incompetent.

Mr. BISHOP: Precede my question with the words "State if you know."

Witness answered. After he married Yap Puan Niu he remained 3 or 4 years.

Q. During this 3 or 4 years how often did you see Sy Quian and his wife, Yap Puan Niu?

A. I saw them when they came for the Theatrical entertainments, they usually went home after such entertainments were over.

Q. About how many times a year did you see these parties during the 3 or 4 years you say that Sy Quian remained in Am Thau?

A. Three or four times. Sometimes they came to her old house when I happened to be there, otherwise I did not see them when they came.

Q. State, if you know, where Sy Quian went after he left Am thau?

Defendants object on the ground that the question is incompetent and somewhat leading.

Witness answers. He went to Manila.

Q. Did he ever return from there?

317 A. Yes. About several months after he left he came home as the Super-cargo of a certain steamer, remained some 15 days or so and went away again with the same steamer.

Morning session adjourned 12 o'clock until 2 P. M.

Afternoon session, 2 p. m., September 17th, 1906.

All parties appearing as here-to-fore.

Continuation of direct examination of LIM CHIO by Mr. BISHOP:

Question. State, if you know, about how old Yap Puan Niu was when she married Sy Quian?

Defendants object because the question is incompetent.

Witness answers. She was about 21 years old at the time she married Sy Quian.

Q. Was she married or single at the time she married Sy Quian?

Defendants object on the ground that the question is incompetent.

A. I don't understand the question.

Q. State, if you know, whether Yap Puan Niu had ever been married before she married Sy Quian.

Same objection on the part of Defendants.

A. No. She had not been married.

Q. State, if you know, whether Sy Quian had ever been married before he married Yap Puan Niu.

318 Defendants object on the ground that the question is decidedly incompetent.

A. No. Had he been married his proposal would have — refused.

Q. Did Sy Quian and his wife Yap Puan Niu have any Children? State if you know.

Defendants object, the question is incompetent.

Witness answers: Yes:

Q. How many?

A. Two.

Q. Boys or girls?

A. Both boys.

Q. How do you know?

A. On the birth of the two boys they had to report the facts to the old Home of the wife, and I received cakes on these occasions.

Defendants move that the answer be stricken out from the Record, on the ground of incompetency.

— Were these two children ever in Lau Poan?

A. Yes. They were.

Q. About how often?

A. Whenever Yap Puan Niu came they accompanied her.

Q. Do you know their names?

A. The Elder one was named Sy Bi (Mi) Bo. And the other one Sy Bi Mi) Git. They were brothers.

Q. Is Sy Quian living or dead?

A. He is dead.

Q. When did he die?

A. I do not know exactly. He died in Manila about  
319 more than ten years ago.

Defendants move that the answer be stricken out from the Record on the ground of incompetency, being nothing but hearsay.

Q. Is his wife, Yap Puan Niu, living or dead?

A. She is dead.

Q. When did she die?

A. She has been dead 15 or 16 years, she died before Sy Quian.

Q. Where did she die?

A. In Am Thau.



Q. Where is Sy Quian's wife buried?

A. She was buried at a place called Hiun Bo, in the Am Thau village.

Q. Where was Sy Quian buried?

A. In Manila.

Defendants move to have this answer stricken out from the record, being nothing but Hearsay.

Q. Where is their son Sy Bi (Mi) Bo?

A. He is dead.

Q. When did he die?

A. More than ten years ago.

Q. Where?

A. In Am Thau.

Q. Who died first Sy Bi (Mi) Bo or his mother?

A. Si Bi (Mi) Bo died first.

Q. Was Sy Bi (Mi) Bo married or single when he died?

Defendants object to the question because it is incompetent.

20 Witness answers. He was married.

Q. Whom did he marry?

Same objection by the Defendants.

Witness answers. He married a girl from the Wa Chu village sur-named Ho named Gim Niu.

Q. At the time Sy Bi (Mi) Bo married this girl from the Ho family, had either of them been married before?

The Defendants object on the ground that the question is incompetent and irrelevant.

Witness answers. No. Neither of them did.

Q. Where did they live?

A. They are both dead now, they lived in Am Thau.

Q. Is the wife of Sy Bi (Mi) Bo living or dead?

A. She is dead.

Q. When did she die?

A. More than ten years ago.

Q. About how old was Sy Bi (Mi) Bo when he got married?

Defendants object the question is incompetent.

Witness answers. He was between his tenth and twentieth years.

Q. At the time of his marriage was he a boy or a young man?

Interpreter states that the two terms mean just the same in Chinese.

Q. At the time Sy Bi (Mi) Bo got married was he a boy or a man?

The Defendants object to the question for the reason that the witness by her own answer to the previous question has shown  
21 herself to be incompetent to answer the present question.

Witness answers. He was a man. Why! he sent a red chair for his wife!

Q. Did Sy Bi (Mi) Bo' and his wife have any children?

Defendants object, the question is incompetent.

Witness answers. Yes. Two, one boy and one girl.

Q. What was the name of the Boy?

A. The name of the boy was Sy Yoc Chai.

Q. What was the name of the girl?

A. Sy Hui Niu.

Q. Where is Sy Yoc Chai now?

A. He is in Manila. He is with his 5th grand-uncle who is also in Manila.

Q. What is the name of that Uncle in Manila?

A. Sy Hien.

Q. Where is the daughter?

A. She has been married.

Q. Whom did she marry?

A. Siao Cheong of the Au Chio Po village.

Q. Is she now living or dead?

Defendants object because the question is leading, and incompetent.

Witness answers. She died this year. More than a month ago.

Q. Did she have any children?

Defendants object because the question is incompetent, irrelevant and immaterial.

Witness answers. Yes.

322 Q. How many boys or girls?

A. The same objection from Defendants.

Witness answers. Only one boy, a boy.

Q. About — old is that boy now?

Same objection from Defendants.

Witness answers. About 7 or 8 years old.

Q. When was that boy born in reference to the marriage of his mother?

Objected to by Defendants because the question is incompetent, irrelevant and immaterial.

Witness answers. Two or three years after the marriage.

Q. Where is that boy now?

A. In Au Chio Po. I saw this boy come back to Am Thau not long ago.

Q. About how long after the marriage of Sy Quian and Yap Puan Niu was Sy Bi (Mi) Bo born?

A. The next year.

Q. About how long after the marriage of Sy Quian and Yap Puan Niu was Sy Bi (Mi) Git born?

A. The next year after the first born boy. They were very lucky.

Q. What relation is the Sy Hien whom you have mentioned as being in Manila to the Sy Quian whom you have mentioned?

Defendants object because the question is incompetent, irrelevant and immaterial.

Witness answers. Sy Quian is the older brother and Sy Hien the younger brother.

323 Q. Was Sy Bi (Mi) Git single or married at the time of his death?

Defendants object on the ground that the question is incompetent.

Witness answers. He was married.

Q. Whom did he marry?

A. He married a girl of the Ting Lo village of the Yap family.

Q. At the time Sy Bi (Mi) Git married this girl, had either of them been married before?

Defendants object on the ground that the question is incompetent.

Witness answers. No. Neither of them had been married.

Q. Where did they live after their marriage?

A. In Am Thau. He and his brother never went abroad.

Q. Are Sy Bi (Mi) Git and his wife living or dead?

Defendants object on the ground that the question is incompetent.

Witness answers. They are dead.

Q. Who died first, Sy Bi (Mi) Git or his mother?

A. Sy Bi (Mi) Git died first.

Q. About how old was Sy Bi (Mi) Git when he got married?

A. He was about the age of Sy Bi (Mi) Bo when he married Sy Bi (Mi) Bo married a year ahead of him.

Q. At the time Sy Bi (Mi) Git got married was he a boy or a man?

A. He was a man; he sent a red chair for his wife.

324 Q. Did Sy Bi (Mi) Git and his wife have any children?

Defendants object on the ground that the question is incompetent.

Witness answers. Yes.

Q. How many?

A. One boy and one girl.

Q. When were these children born in reference to the time of the marriage of Sy Bi (Mi) Git and his wife?

A. One year after the marriage the boy was born, and two years from that the girl.

Q. What is the name of the boy?

A. Sy Yoc Ling.

Q. Where is he now?

A. He is there. (Witness pointing to the Plaintiff sitting near the fire place in this room.)

Q. What is the name of the daughter of Sy Bi (Mi) Git and his wife?

A. Sy Chiao Niu.

Q. Where is she now?

A. Married into the Tan family of Che Chiung village.

Q. What relation if any, is this Plaintiff whom you have pointed out, Sy Yoe Ling, to the Sy Hien, whom you referred to as the younger brother of Sy Quian and as being in Manila?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Sy Hien is grand-uncle of Sy Loe Ling.

325 Q. What interest, if any, have you in this litigation?

A. No interest at all.

Mr. BISHOP: That is all.

Cross-examination of LIM CHIO by Messrs. SUMULONG and OPISSO:

Question. How old are you?

A. 77.

Q. What year were you born. Your Cycle and Dynasty year.

A. I was born in the year of the Tiger, I do not know the Dynasty year.

Q. The year of the Tiger of the present Cycle or of the last Cycle?

A. I don't know.

Q. How do you know then that you are 77 years old?

A. My sons celebrate the anniversary of my birthday every year.

Q. And that is the reason why you know your present age is it not?

A. I have counted the addition of one year to my age at every year that has gone by.

Q. But give us your reason for knowing your age that your sons celebrated your birthday every year, is not that so?

A. Yes.

Q. Therefore your sons must be as old as you, are they not?

Question objected to as nonsensical.

Question withdrawn.

326 Q. You said that Sy Quian and Yap Puan used to go sometimes to Lau Poan village after their marriage, how old were Sy Bi (Mi) Bo and Sy Bi (Mi) Git the last time you saw Sy Quian and his wife attending those theatrical performances in Lau Poan?

A. They were mere babies in arms.

Q. About what age were they then?

A. One was two or three years and the other one or two years.

Q. So then that was the age of those children the last time you saw them, (Sy Quian and his wife.)

A. Yes.

Q. How long after you saw Sy Quian and his wife for the last time did Sy Quian go abroad? How many years?

A. He went abroad 3 or 4 years after he was married.

Q. But you do not answer the question.

A. Not very long a time, after that Sy Quian went abroad.

Q. But how long, more or less, please state the time more definitely.

A. After they came with these babies in their arms to my village, that is the last time I saw them, about a year or so he went abroad again.

Q. How many times did Sy Quian come back to China after having gone abroad?

A. Twice.

377 Q. How long did he remain here the first time he returned?

A. Not very long this time, he came home as Supercargo of a certain steamer, and in less than 20 days he went away in the same steamer.

Q. How long did he stay the 2nd time?

A. The second time he returned he did not stay long, he returned this time after an absence of more than ten years.

Q. Could you be more definite as regards the time he stayed at home this second time he returned?

A. About several months, not long.

Q. How old were then Sy Bi (Mi) Bo and Sy Bi (Mi) Git, that is to say the 2nd time that Sy Quian returned from Manila?

A. They were about that high. (Witness indicating.) They were more than ten years old.

Q. In answering that question before thinking about their age gave a height, by motioning with your hand of about 3 feet and 2 feet and a half respectively, did you not?

A. Yes.

Q. The first time that Sy Quian returned from abroad how old were Sy Bi (Mi) Bo and Sy Bi (Mi) Git?

A. One was just able to walk and the other was still unable to do so, in fact, Sy Quian had been absent only a few months.

Q. But more or less, how old was the eldest and also the youngest of the 2 children of Sy Quian?

328 A. One was three or four years old and the other was two or three. I mean that one was able to walk and the other unable to walk respectively.

Afternoon session adjourned at 4 P. M., September 17th, 1906, to 9:30 A. M. September 18th, 1906.

Morning Session, September 18th, 1906, 9:45 a. m.

Continuation of cross-examination of LIM CHIO by Messrs. SUMULONG and OPISSO:

Question. Did you know Puan Kien.

Mr. Bishop: Objected to as not being Cross-Examination.

Witness answers. Witness asks to be permitted to have a few minutes' rest, as the wind crossing the harbour was too strong for her.

The session adjourned for a few minutes as the witness has requested having just crossed the harbour she is tired. She is allowed to talk to no one during the interim.

Witness answering the question after having rested. I do not know Puan Kion.

Q. Did you know Mrs. King Niu?

Objected to as not Cross-Examination.

A. No.

Q. Did you know Mrs. Sy Ho Joo Jen?

Objected to as not Cross-Examination. Unless Attorney  
329 for Plaintiff indicates the relationship that this party bears to the one of the parties named in one of the Tablets, as it is apparent that no two persons spell or translate the Chinese names into the English language exactly the same, on account of our language having no perfect equivalents to the many Chinese characters.

Witness answers: That referred to a woman of the Surname of Ho, name Gim Niu.

Q. Who is that woman?

A. Gim Niu was the wife of Sy Bi (Mi) Bo.

Q. Did you know Yoe Boon?

Objected to for the same reason as stated in our last objection.

Witness answers: I know of a person by the name of Yoe Chai, but not Yoe Boon. Yoe Chai is the son of Sy Bi Bo.

Q. You said that Sy Bi (Mi) Gi and his wife had only 2 children?

A. Yes.

Q. And that they were one son and one daughter, is that so?

A. One son, and the other a daughter.

Q. Have you ever lived in Ann Than?

A. Yes. My girl has been married into that village.

Q. How long have you lived in Ann Than and since when?

A. I have been there on visits, but have never lived there.

Q. To what part of Sy Qian's marriage ceremony did you attend?

330 A. I was present and helped the bride to put on her hat, clothes, and so forth, and finally assisted her to her Bridal chair.

Q. So that was the only part you took personally in the wedding, just to help the Bride in dressing and see her to the Bridal chair before being carried away, is that correct?

A. I was also present when the couple came home to make the visit to the Bride's own Home.

Q. And those were the only two instances, were they not?

A. Besides these two instances I saw them when they came to make visits later.

Q. We only refer to the marriage ceremony, those calls to which you refer in the last part of your answer were made long after their



marriage, and, as regards the wedding, the only two instances when you were present were those you have mentioned to wit; helping the Bride to the Bridal Chair and seeing her come to her old home to visit her parents is not that true?

A. Yes. I meant by the visits to her old home the visits she and her husband made on the 12th day after their marriage.

Q. Were you any relative of Yap Puan Niu?

A. Yes. I married her elder cousin.

Q. Do you know how old was Sy Quian when he married?

A. He was about 24 or 25.

Q. When did you see him for the first time?

331 A. On the day he made the visit with his Bride to her old Home.

Q. So that before the time you ever knew him? Did you?

A. No.

Q. How then do you know that he was single before marrying Yap Puan Niu, if you never knew him before?

A. The father of Yap Puan Niu before he consented to marry his daughter to him made enquiries from all sides and found that Sy Quian had not married and that he was worthy of his daughter, so he consented.

The Defendants now move that all that this witness has testified to regarding the fact that Sy Quian was single before he married Yap Puan, be stricken out from the Record as incompetent, and Hear-say testimony.

Q. How old were you at the time Sy Quian married Yap Puan?

A. I was 18 years old.

Q. How long had you been married then?

A. One year.

Q. How old was Yap Puan when you married Yap Su?

A. She was 20 years old.

Q. How long before your marriage did you move to Lao Poan?

A. Before my marriage I was in my own home. What business had I to be in Lao Poan?

Q. So that you knew Yap Puan only at the time, or just after your marriage, did you not?

A. Yes.

332 Q. Is it not a fact that the bridesmaids are always very intimate friends, or very near relatives of the Bride?

A. Yes.

Q. You say that Sy Bi (Mi) Bo died about ten years ago, and that Yap Puan died about 14 or 16 years ago, is it not then true that Yap Puan, according to your statement, died four years before Sy Bi (Mi) Bo.

A. No; Bi Bo died first.

Q. How do you know that Sy Bi (Mi) Bo and Sy Bi (Mi) Git are the children of Yap Puan?

A. By the reason of the cakes, and so forth, that were sent to the Lao Poan village to announce the fact that they were born to

Yap Puan, and we had to send the mother messages of congratulation.

The Attornies for the Defendants now move that all what has been stated by this witness referring to the birth and relations of Sy Bi (Mi) Bo and Sy Bi (Mi) Git be stricken out from the Record on the ground of incompetency.

Q. Is it not a fact that the fact of the birth of a child is only notified to the relatives of the father's family to which the wife belongs also from the day of her marriage?

A. Yes, also it is notified to the relatives of the mother's old family.

Q. How do you know that Sy Bi (Mi) Bo and Sy Bi (Mi) Git died?

A. I made a visit of condolence to their mother on 333 the death of each of her two sons.

Q. Did you attend to their funeral?

A. No. I paid visits of condolence to their mother only.

Q. Sy Bi (Mi) Bo and Sy Bi (Mi) Git continued living with their mother all the time after Sy Quian's departure to Manila, the first time, did they not? And up to the time of their respective marriages?

A. Yes.

Q. Who went to Manila first, Sy Hien or Sy Quian?

A. I do not know who went first.

Q. Have you ever known Sy Hien?

A. No.

Q. Then if you do not know, and have never known, Sy Hien how do you testify here as regards his relationship with either Sy Quian, Sy Bi (Mi) Bo, Sy Bi (Mi) Git, in fact as regards anything concerning him?

A. My daughter told me that Sy Hien's wife was the grand-aunt-in-law of Sy Yoe Ling.

The Defendants now move that all what this witness has testified to regarding Sy Hien and his relationship to Sy Quian, Sy Bi (Mi) Bo, Sy Bi (Mi) Git, Sy Yoe Ling, Sy Yoe Chai, and the rest of the Plaintiffs, be stricken out from this Record on the ground that it is incompetent, and hear-say testimony.

Q. Did you know Sy Bi (Mi) Bo and Sy Bi (Mi) Git's wives, and did you see any one of the four, or their children after the former were married? If so, state when, where, and how many times.

334 A. I never met the wives of Sy Bi (Mi) Bo and Sy Bi (Mi) Git. I have seen their children, with the exception of Yoe Chai.

Q. How many times, when and where?

A. I have never met Sy Yoe Chai. This is the only son of Sy Bi (Mi) Bo.

The attornies for the Defendants move that the last part of the witness' answer be stricken out for incompetence.

Q. Have you any religion?

A. I don't understand you.

Q. Do you believe in any god, or supreme Being, and if so what is your creed?

A. I worship the Buddha.

Q. What is your creed?

A. I don't understand you.

Q. Could you show, and prove, with any document the fact that you are 77 years old?

A. I have no documents what-so-ever to show my age.

Q. You must doubtless keep your marriage letters, or Contract, and, if you do not keep it personally, the Elders of your Family must keep it, is it not so?

A. They cannot exist at this day after so many years, it might have been given to the children to play with, and then be torn.

Mr. O'Pisso: That is all.

Redirect examination of Lim Chio by Mr. Bishop:

335 Question. How many times did Sy Quian go abroad after he was married?

A. Two or three times.

Q. Do you believe in God?

A. No.

Q. Whom do you recognize as the Supreme Being?

A. I don't understand your question. Can you explain so as to let me understand?

Q. What do you mean by your answer "I worship the Buddha".

A. I mean the image put on the table before which I used to burn incense.

Q. Did you meet the wife of Sy Quian after he went abroad, if so about how often?

A. After Sy Quian went abroad I met his wife when she visited her old Home, such visits she made very often, it is impossible to say how many times.

Q. How often did you see her two children, Sy Bi (Mi) Bo and Sy Bi (Mi) Git after their father went abroad?

A. They usually came with their mother when she made visits to her old Home, I mean when they were small, when they were older they were in school, and very seldom accompanied their mother to her old Home.

Q. Mr. BISHOP: That is all.

Mr. O'Pisso: That is all.

Mr. O'Pisso and Mr. SUMULONG: We renew as regard this Witness the request and motion we made at the close of the testimony of the Witness Sy Peng in the same manner as it appears on page 144 of this Record.

336 Mr. BISHOP: And we renew our statement and request as appears on pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145/6

made in conformity with the requests of the Attornies for the Defendants and the Attorney for the Plaintiffs is equally applicable and has the same force with regard to the Witness Lim Chio as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing to read an interpretation of Lim Chio's testimony to her in Chinese. Before the testimony was read to her the Vice-Consul informed her through the Interpreter that she could correct it in any particular as she wished to do so?

Morning session adjourned 12:15 to meet 2 P. M.

Afternoon session, 2:15 p. m.

All parties appearing as here-to-fore.

Testimony read to the Witness by the Interpreter, and the Witness asks to make one correction, which is as follows:—

To change the second answer on Page 179 of this Record from "No." to read "No. I do not believe in the God of the Christians but I believe in the Supreme Being of Heaven."

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking of the Deposition, and after having been advised by the Vice-Consul that she could correct it in any particular if she wished to do so, and after having corrected it in the one instance above noted, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn Testimony is found to be untrue, you are liable to the pains and penalties of perjury", she stated that she approved the same and that the same was correct, she signed it by making her mark after her name was written in Chinese characters by the Interpreter.

(Chinese characters.)

Witness:

REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, in China, certify that the preceding is the Deposition given before me on the 17th and 18th of September, 1906, by the Witness, Lim Chio, who before giving her Testimony took the prescribed Oath to tell the Truth, and after having her Testimony read to her, and having been informed of her right to correct it in any particular if she desired, and having corrected it in the one instance above noted, and having been cautioned, that if her testimony is found to be untrue, she is liable to the pains and penalties of perjury signed her name by marking her mark after her name was written in Chinese Characters by the Interpreter, on finding it to be correct.

I also certify that this Deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested

person, and that the same is a faithful expression of the testimony of the Witness.

I also Certify that the Witness, after subscribing the same by making her mark, as above stated, took Oath that the Deposition subscribed by her, contained the truth, the whole truth, and nothing but the truth.

In witness whereof, I have here-unto subscribed my hand and affixed the Seal of this Consulate on this 18th day of September, 1906.

[CONSULATE SEAL.]

(Sgd.)

REA HANNA,  
*Vice-Consul.*

Afternoon session adjourned, 3:45 P. M., September 18, 1906, to 9:30 A. M., September 19, 1906.

Morning Session, 9:45 a. m., September 19, 1906.

All parties appearing as here-to-fore.

Plaintiffs call as their fourth Witness a Chinese woman Yap Si Tan.

Yap Si Tan sworn through the Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case shall be the Truth, the whole Truth, and nothing but the Truth. So help you God."

339 The Defendants move that in addition to the Oath above to be administered to the Witness for the Plaintiffs, according to the Rules of this Consulate, this Witness be also sworn in the Chinese way, on the head of a white Rooster cut by the Witness herself at the time of taking her Oath and giving her testimony.

Mr. BISHOP: We object to such proceedings and ask the same formality as with the previous Witnesses.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other Oath to the Witness than the one by which he now swears her.

The Defendants except to the Ruling of the Vice-Consul.

Yap Si Tan sworn through the Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Direct examination by Mr. BISHOP:

Question. What is your name?

A. Yap Si Tan.

Q. Where do you live?

A. At present in Lao Poan.

Q. What is your occupation?

A. I have no particular occupation.

Q. How old are you?

A. 78.

Q. How long have you lived in the Lao Poan village?

A. More than ten years.

Q. Are you married or single?

340 A. Married.

Q. Where is your husband?

A. He is dead now.

Q. About how long ago did your husband die?

A. More than ten years.

Q. Where were you married?

A. In Lao Poan.

Q. Where did you live before you were married?

A. In Lao Poan.

Q. Where were you born?

A. In Lao Poan.

Q. Have you lived all your life in the village of Lao Poan?

Defendants object because the question is leading and the statements of the Witness here-to-fore are clear enough.

Question withdrawn.

Q. In what village did you live after you were married?

A. I lived in Sin Tung Toe Lo Tao in Amoy.

Q. How long did you live there?

A. 30 or 40 years.

Q. And when did you go back to the village of Lao Poan?

A. I have been in Lao Poan for more than 10 years.

Q. Did you know a woman of the name of Yap Puan Niu?

A. Yes, I did.

Q. Where did you first know her?

341 A. First time I knew her was when we were small girls we lived as neighbors.

Q. How old were you when you got married?

A. 15 years old.

Q. When you first knew Yap Puan Niu was she married or single?

Defendants object on the ground that the question is incompetent.

Witness answers. She was not married.

Q. Where is she now?

A. She is in Am Thau.

Q. Is she living or dead?

A. Dead.

Q. About how long has she been dead?

A. 15 or 16 years.

Q. Do you know whether or not she was married?

Defendants object on the ground that the question is incompetent.

Witness answers. Yes Yap Puan Niu married Sy Quian.

Q. How do you know that Yap Puan Niu married Sy Quian?

A. She was my elder cousin. I was there by her invitation at the time of her wedding.



Q. About how old was Yap Puan Niu at the time of her marriage?

A. 21 years old at the time of her marriage.

Q. Do you know if she had ever been married before?

Defendants object because the question is incompetent.

Witness answers. A. No, she was not.

Q. Where were Sy Quian and Yap Puan Niu married?

A. Sy Quian and Yap Puan Niu were married at Am Thau  
342 and Lao Poan respectively.

Q. Do you know whether or not any one arranged the marriage between Sy Quian and Yap Puan Niu?

A. Yap Hong was the Mediator.

Q. State, if you know, whether the Mediator, Yap Hong, was present at the marriage.

Defendants object on the ground that the question is incompetent and leading.

Witness answers. Yes. He came with the red chair, but he did not come after the marriage.

Q. Tell all you know about the arranging of the marriage, the ceremony, and the marriage of Sy Quian and Yap Puan Niu.

The Defendants object on the ground that the question is incompetent.

Witness answers. At first they negotiated as regards betrothal money, bangles, ornaments, and so forth; when these were arranged the betrothal took place and the usual presents, consisting of sugar-candies and so forth were exchanged, after this the Bride was sent for to be married.

Q. How do you know that the Bride was sent for to be married?

A. On the Betrothal day there were sent from the Groom's family the usual presents, which were distributed among the friends and the Relatives of the Bride's family. In the same manner were those return present- such as Chinese Breast-pieces and so forth, distributed among the friends and relatives of the Groom's family, in  
343 this way the betrothal was made known. Two days prior to the marriage the Bridal dress was sent to the Bride's Family.

Q. Were you present at the time the party left with the red chair?

A. I was.

Q. Describe that part of the ceremony.

A. The red chair came accompanied by the Mediator, men carrying lanterns bearing the family name of Sy Quian; the Bride was dressed and left in the red chair accompanied by the same party with the addition of the man carrying her lantern denoting the family name of the Bride.

Q. When did you next see the Bride?

A. On the 6th day the brother of the Bride made his call on the Groom, and bore to him the invitation for the Groom and Bride to visit her old Home, this visit they made on the 12th day after the marriage, and it was on this day that I saw the Bride the 2nd time.

**Q.** How long did the Betals and Groom stay at the Betals old home upon this occasion?

**A.** They came in the morning and left in the afternoon.

**Q.** When did you next see Sy Qian and his wife?

**Defendants object** on this question as leading.

**Witness answers.** The next time they made a visit to her old home after this 12th day I have referred to.

**Q.** Do you know whether Sy Qian and his wife had any children?

**Defendants object** on this ground that the question is incompetent.

244 **Witness answers.** Yes. They got next year after the marriage.

**Q.** How many children did they have?

**A.** Two.

**Q.** What were their names?

**A.** One was named Sy Bi (Mi) (Si) and the younger one Sy Bi (Mi) (Gai).

**Q.** Were these children ever in any outillage?

**A.** Yes they were. Their mother Yap Puan Nien took them there.

**Q.** Was Sy Qian ever in that outillage after this 12th day that you have mentioned?

**A.** Yes.

**Q.** About how often?

**A.** Two or three times.

**Q.** Since if you know how long after Qian married in the 1st of Tan after the marriage of Yap Puan Nien.

**Defendants object** on this ground that the witness is incompetent to answer this question and also because the question is leading.

**Witness answers.** Three or four times.

**Q.** Since if you know where the children went.

**Same objection by Defendants.**

**Witness answers.** To Manila.

**Q.** Did he ever return?

**A.** Three or four months afterward he came back here on a Singapore steamer.

**Q.** How long did he remain?

**AA.** Only upwards of five or six days. He left again with the same steamer.

245 **Q.** Since if you know where Sy Qian has gone?

**AA.** In Manila.

**Q.** Has he been married?

**Defendants object** on this ground that the question is incompetent.

**Witness answers.** Sy Qian I understand is single.

**Q.** With did he first Yap Puan Nien Sy Qian?

Defendants object on the ground that the question is incompetent.

Witness answers. Yap Puan Niu died first.

Q. Where is Sy Bi (Mi) Bo?

A. He is dead. He died in Am Thau.

Q. Where is Sy Bi (Mi) Git?

A. He is also dead. He also died in Am Thau.

The defendants now move that the two last questions and answers be stricken out of the Record for incompetency.

Q. Who died first, Sy Bi (Mi) Bo or Yap Puan Niu?

Same objection by Defendants.

Witness answers. Sy Bi (Mi) Bo died first. Sy Bi (Mi) Git died first, then Sy Bi (Mi) Bo and then Yap Puan Niu. The last named person has now been dead 15 or 16 years.

Q. Was Sy Bi (Mi) Bo married or single at the time of his death?

Defendants object on the ground that the question is incompetent.

Witness answers. He was married.

246 Q. Whom did he marry?

Same objection by the Defendants.

Witness answers. He married a girl of Wa Chua village.

Q. What was her name?

A. Ho Gim Niu Ho being the Surname.

Q. Where did Sy Bi (Mi) Bo and his wife live after their marriage?

Same objection by the Defendants.

Witness answers. In Am Thau.

Q. Did Sy Bi (Mi) Bo and his wife have any children?

Defendants object on the ground that the question is incompetent.

Witness answers. Yes.

Q. How many?

A. Two. One girl, one boy.

Q. What was the name of the boy?

A. His name is Sy Yochai.

Q. Where is he now?

A. He is now in Manila.

Q. What is the name of the girl?

A. Her name is Sy Hui Niu.

Q. Where is she now?

A. Sy Hui Niu is now dead. She died in Au Chio Po village.

Q. About how long ago did she die?

The Defendants object on the ground that the question is incompetent, irrelevant, and immaterial.

Witness answers. Two months ago. She died in the 6th Moon of the present year.

347 Q. Did she have any children?

Same objection by the Defendants.

Witness answers. One Boy.

Q. Where is the boy now and how old is he?

Same objection by the Defendants.

Witness answers. He is in Au Chio Po, about 7 or 8 years old.

Q. Where is the wife of Sy Bi (Mi) Bo?

Same objection by the Defendants.

Witness answers. She is dead. She died in Am Thau.

Q. About how long ago?

A. Upward of ten years.

Q. Was Sy Bi (Mi) Git married or single at the time of his death?

Defendants object on the ground that the question is incompetent.

Witness answers. Yes. He was married.

Q. Whom did he marry?

A. He married a girl of the Sin Lo village, called Yap Sun Nin.

Q. Where did Sy Bi (Mi) Git and his wife live after their marriage?

A. They lived in Am Thau.

Q. Did Sy Bi (Mi) Git and his wife have any children?

Defendants object on the ground that the question is incompetent

Witness answers. Yes.

348 Q. How many?

A. One boy, and one girl.

Q. What was the name of the boy?

A. His name is Sy Yoc Ling.

Q. What is the name of the girl?

A. Her name is Sy Chiao Nin.

Q. Which of the children is the older?

Defendants object on the ground that the question is incompetent.

Witness answers. Sy Yoc Ling is the older of these two children.

Q. About how long after the marriage of Sy Bi (Mi) Git was Sy Yoc Ling born?

Defendants object on the ground that the question is incompetent.

Witness answers. Two or three years.

Q. When was his sister born?

Defendants object on the ground that the question is incompetent and immaterial.

Witness answers. Three or four years after the birth of Sy Yoe Ling.

Q. When was Sy Yoe Chai born in reference to the marriage of Sy Bi (Mi) Bo?

Defendants object on the ground that the question is incompetent.

Witness answers. Two or three years.

Q. When was his sister born in reference to the marriage of Sy Bi (Mi) Bo?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Two or three years after the birth of the boy.

Q. Do you know whether or not Sy Yoe Chai was a natural child of this marriage, or if he was adopted by Sy Bi (Mi) Bo?

Defendants object because the question is decidedly leading besides being incompetent. And furthermore the Witness has already answered that Sy Yoe Chai was born two or 3 years after Sy Bi (Mi) Bo's marriage.

Witness answers. Sy Yoe Chai is the adopted son. Yap Puan Niu had a natural son, when that son died Sy Yoe Chai was adopted. Sy Yoe Chai is the son of Sy Bi (Mi) Bo, and grandson of Yap Puan Niu.

Q. Did Sy Quian have any brothers?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. I do not know.

Q. State, if you know, what relation the Plaintiff, Sy Yoe Ling, and his sister Sy Chion Niu, were to the Sy Bi (Mi) Git whom you have mentioned?

Defendants object on the ground that the question is incompetent.

Witness answers. They are the children of Sy Bi (Mi) Git. Natural son and daughter of Sy Bi (Mi) Git.

Q. What relation are they to the Sy Quian and Yap Puan Niu whom you have mentioned?

A. Same objection by the Defendants.

Witness answers. They are the grand-children of Sy Quian and Yap Puan Niu. Yap Puan Niu being — the grandmother of Sy Yoe Ling.

Q. State, if you know, what relation the Plaintiff Sy Yoe Chai is to the Sy Bi (Mi) Bo whom you have mentioned.

Defendants object because the question is only a repetition and the witness has already answered as to the fact called forth in the same.

Witness answers. Sy Bi (Mi) Bo is the father of Sy Yoe Chai.

Q. What relation, if any, is Sy Hui Niu one of the Plaintiffs in this action, to the Sy Bi (Mi) Bo whom you have mentioned?

Same objection from the Defendants, and also on the ground that the question is irrelevant and immaterial.

Witness answers: Sy Bi (Mi) Bo is the father of Sy Hui Niu too. She is also his natural child, being sister of Sy Yoc Chai, she is now dead.

Q. Is Sy Yoc Chai a natural son of Sy Bi (Mi) Bo?

Defendants object — the question has already been put to the witness before, and the witness has already answered the question, besides being, therefore a repetition is leading and incompetent.

Witness answers: He is the adopted son.

Q. What relation is this boy that you referred to as being 7 or 8 years old, from the Au Chio Po village, to the Plaintiff Sy Hui Niu.

Defendants object because the question is incompetent, irrelevant and immaterial.

351 Witness answers: This child is the son of Sy Hui Niu.

ATTORNEY FOR PLAINTIFFS: That is all.

Morning session adjourned 12 M. September 19th, 1906, until 2 P. M.

Afternoon Session, 2 P. M. September 19th, 1906.

Cross-examination of YAP SI TAN by MESSRS. SUMULONG and OPISSO.

All Parties appearing as heretofore.

Question. How old were you when you moved into the village of Sin Tung Toe Lo Tao?

A. I was 15 years old then.

Q. Were you then married or single?

A. I was married into a family living at that place.

Q. You said that after you moved to Sin Tung Toe Lo Tao you remained there for about 40 years, did you not?

A. Yes. About 40 years.

Q. You returned to Lao Poan after 40 years, did you not?

A. Yes.

Q. Why did you return to Lao Poan?

A. It was owing to the desire of my family to live in the country, rather than in Town.

Q. To what family do you refer?

A. I refer to the Tan family. The family of my husband.

352 Q. Therefore the family of your husband did not want you to live with them any more?

A. No. They all desired to live a country life with me.

Q. You have been living in Lao Poan for about ten years have you not?



A. Yes. More than ten years.

Q. How many years more than ten years.

A. About 11 years.

Q. How old were you when Yap Puan married?

A. I was 19 years old.

Q. How long had Yap Puan been married when you moved from Lao Poan to Sin Tung Toe Lo Tao?

A. Since I moved from Sin Tung Toe Lo Tao I have not moved again.

Q. You do not understand the question. How long had Yap Puan Niu been married before you moved from Lao Poan to Sin Tung Toe Lo Tao?

A. I never moved from Lao Poan to that place, but I moved from Amoy to Lao Poan.

Q. How long then had you been living in Amoy, that is to say, in Sin Tung Toe Lo Tao before you moved into Lao Poan?

A. 30 or 40 years.

Q. But you said you were born in Lao Poan did you not?

A. Yes I was born in Lao Poan.

Q. How long had you lived in Lao Poan before you moved into Sin Tung Toe Lo Tao?

A. I was born in Lao Poan and then married into Sin Tung Toe Lo Tao.

Q. Therefore you went and moved into Sin Tung Toe Lo Tao only when you were married and then lived in the latter place for about 40 years?

A. I was married right at that place.

Q. Then the first time you went to Sin Tung Toe Lo Tao was only at the time you were married, you married there and lived there for about 40 years after, did you not?

A. Yes. After that I moved to Lao Poan.

Q. Now, what we want to know, is, how long had Yap Puan Niu been married before you went to Sin Tung Toe Lo Tao?

A. I was married when I was 15 years old, then I returned when I was 17 years old—No I mean to say I was 19 years old—to be present at the wedding of Yap Puan.

Q. How much older than you was Yap Puan Niu?

A. Two years.

Q. Are you very sure you were 15 years old when you married your husband and went and moved into the Sin Tung Toe Lo Tao?

A. Yes. 15 years old.

Q. How many years elapsed from the time you moved to Sin Tung Toe Lo Tao up to the time you first returned to Lao Poan to attend the wedding of Yap Puan Niu?

A. I was 19 years old when I returned to attend the wedding of Yap Puan, who was then 21 years old.

Q. That is not what we want. We want to know the number of years that elapsed.

A. I was 19 years old when I returned to attend the wedding of Yap Puan.

Q. Still you have not answered the question. How many years

did you live in Sin Tung Toe Lo Tao before going back to Lao Poan to attend the wedding of Yap Puan Nin?

A. I lived from the time when I was 15 years old up to the time I was 19 years old, then I returned to attend the wedding of Yap Puan in Lao Poan.

Q. But is it possible that you cannot specify the number of years that elapsed from the time you married into Sin Tung Toe Lo Tao village up to the time you went to Lao Poan village to attend to the marriage of Yap Puan Nin?

A. It was four years. Yap Puan Nin was two years my senior.

Q. Are you sure you are 78 years old, not one year more, not one year less?

A. 78; no more, no less.

Q. Will you tell us the year you were born, both the dynasty and the cycle?

A. I don't know the year of the dynastic reign because I cannot read. I was born in the year of the Cow.

Q. Of what Cycle, the present or the former?

A. I don't understand this system.

Q. How many Cow Years have there been since you were born including the year you were born?

355 A. I don't know. I know I am 78 years old.

Q. How many days were you in Lao Poan attending the wedding of Yap Puan Nin?

A. I was there one month.

Q. Were you all that month at Lao Poan attending the wedding of Yap Puan Nin?

A. Yes. I returned from Amoy to Lao Poan and remained a month.

Q. How far is Lao Poan from Sin Tung Toe Lo Tao?

A. I don't know how far it is. I go in chairs. I sit in them and trust the Coolies to carry me.

Q. How long a time does it take you to go from one place to the other?

A. A little over an hour.

Q. Were you present at the Bride's home at the time that the usual ceremony was held there.

A. I was.

Q. Do you remember the persons that were there?

A. All her relatives and Clansmen were there.

Q. Why did you happen to attend to that ceremony?

A. I came by invitation.

Q. Did you help Yap Puan to dress and put on the Bridal gown on the day of her wedding before she was taken in the red chair?

A. Yes. I did help her on the day.

Q. Were you alone helping her?

A. Besides myself Lim Chio was also helping her.

Q. Who else?

A. Some other relatives.

356 Q. Do you remember their names?

A. All the women folk of the Yap family were mostly

present some of them helped her to put on hair pins, some of them helped her to put on her garments. It is such a long time ago that I do not remember all their names now.

Q. So you only remember Lim Chio?

A. I remember Lim Chio and myself and two or three "M'Ma" and "Jim" of Yap Puan.

Q. Who were these two or three "M'Ma" and "Jim" of the Bride?

A. "M'Ma" means the wife of an elder brother, and "Jim" means the wife of the younger brother of the Bride.

Q. As a matter of fact you do not remember their names do you?

A. I don't remember their names. I saw them present that day, and help her to dress.

Q. How do you explain the fact that you do not remember the names of the other parties, and yet you remember the name of Lim Chio?

A. I know the name of Lim Chio because she is the wife of my "brother". Therefore she is more closely related to me than the others and that is why I happened to remember her name well.

Q. What was the name of your brother?

A. "Su". She is the wife of my cousin.

Q. Do you know how many times did Sy Quian and Yap Puan come to Lao Puan after they were married and before Sy Quian left China?

A. I saw them twice. They had been to Lao Puan several times besides these, but I did not see them.

Q. After the second time you saw Sy Puan in Lao Puan is it not a fact that you never saw him any more?

A. Yes. They might have returned again, but I was in Amoy so I did not see them.

Q. Is it not a fact that you have never known personally either Sy Bi (Mi) Bo or Sy Bi (Mi) Git?

A. I saw them when they were young. After they commenced to go to school I did not see them.

Q. How long ago was that?

A. You mean when I saw them?

Q. Yes.

A. More than 20 years ago.

Q. 21 years ago?

A. Quite close up to 30 years.

Q. But not up to 30?

A. Almost.

Q. How old were they, both Sy Bi (Mi) Bo and Sy Bi (Mi) Git.

A. They were more than 20 years old.

Q. Do you mean to say that they did not start going to school until they were over 20 years old?

A. They had been studying at Home in Am Thau.

Q. You never lived in Am Thau?

A. Never.

Q. Therefore you cannot know of your own personal knowledge that Sy Bi (Mi) Bo and Sy Bi (Mi) Git ever studied at Home.

358 A. Yap Puan Niu their mother, used to take the boys with her when she returned to Lao Poan. She told me later that the boys were studying at Home, that is why she did not bring them with her.

Q. When you saw "At Home" do you mean to say that they were studying in their house, with a private teacher?

A. Yes. They studied at their own house with a private teacher specially hired for the purpose.

Q. And you say that until they were 20 years old they did not go to school, to what school did they go after that and for how many years?

A. Yap Puan Niu at one time when I happened to be in Lao Poan on a visit told me that her boys had been attending School, I don't know what school she referred to then.

Q. About how old were you then, and Yap Puan Niu when she spoke about it?

A. Yap Puan Niu must have been more than 30 or 40 years at that time.

Q. 35?

A. I don't know, she was more than that.

Q. 38?

A. Her boys were pretty old. She would have been at least that many years old.

Q. During the 30 or 40 years you were living at Sin Tung Toe Lo Tao were you ever in Am Thau?

A. No. All the times I saw Yap Puan Niu she was in Lao Poan.

Q. Is it not a fact that the last time you personally saw Sy Bi (Mi) Bo and Sy Bi (Mi) Git they were only mere boys not  
359 older than 12 years old?

A. Yes, that is so.

Q. You said here that Sy Bi (Mi) Bo was married.

A. Yes.

Q. Did you attend his wedding?

A. No. I heard it from Yap Puan Niu.

Q. You say that Sy Bi (Mi) Git was married.

A. Yes.

Q. Did you attend the wedding?

A. I was not. I got the information from Yap Puan Niu.

Q. How old was Sy Bi (Mi) Bo when Yap Puan Niu told you that he had been married.

A. He was more than 20 years old.

Q. 21?

A. About 21 or 22?

Q. How old was Sy Bi (Mi) Git when you heard that he had been married.

A. He was married a year later than his brother. He was also about 21 or 22 years old.

Afternoon session adjourned 4 P. M. September 19th, 1906, until 9:30 A. M. September 20th, 1906.

Morning Session, 9:45 a. m., September 21, 1906.

Continuation of the cross-examination of YAP SI TAN by  
Messrs. OPISSO and SUMULONG:

360 All parties appearing as heretofore.

Question. How many natural born children did Sy Bi (Mi) Bo have?

A. He had two.

Q. And how many natural born children did Sy Bi (Mi) Git have?

A. He had one son and one daughter.

Q. These two children of Sy Bi (Mi) Bo were they both males or females?

A. One son and one daughter.

Q. And you said that when Yap Puan Niu lost her natural child, she adopted Sy Yoc Chai.

A. Yes.

Q. Who was that child of Yap Puan Niu that died?

A. I don't remember. It is a long time ago.

Q. Is it not a fact that the first time you ever saw Sy Yoc Ling has been a few weeks ago only?

A. What do you mean by the first time?

Q. The first time.

A. It was a long time ago.

Q. About how long, more or less?

A. Do you mean this time or a long time ago?

Q. I mean the first time you ever saw him.

A. Do you mean when I saw him as a boy or when I saw him as a man?

Q. If you had seen him as a boy you couldn't have seen him for the first time when he was already a man, therefore I mean the first time you ever saw him.

361 A. I saw him when he was a baby in arms for the first time.

Q. Where did you see him then, and how many years ago was that?

A. He is now about thirty years old or more, so it is about thirty years ago.

Q. Is it not a fact, that you have never known Sy Yoc Chai?

A. Yes, I have. I saw him when Yap Puan Niu took him with her on her visits, to her mother's home.

Q. How do you know that Sy Bi (Mi) Bo and Sy Bi (Mi) Git were ever married?

A. I got the information from Yap Puan Niu, and by reason of the fruits and so forth, she sent me about the time of their marriage.

Q. Why do you know that Sy Bi (Mi) Bo and Sy Bi (Mi) Git were children of Yap Puan Niu?

A. On the occasions of their births, I received customary presents from Yap Puan Niu, and on these occasions I also sent her presents with my congratulations.

Mr. SUMULONG and Mr. OPISSO: That is all.

## Redirect examination of YAP SI TAN by Mr. BISHOP.

Q. What dialect of the Chinese language do you talk?

A. Amoy.

Q. Can you read and write the Chinese characters?

A. No. I do not read or write.

Q. How do you count time, especially of event which happened a long time ago?

362 A. I do not remember old event. I happen to know Yap—  
about Yap Puan Niu on account of our relationship.

Q. How often does your family celebrate your birthday?

A. Yes, they celebrate my birthday every year.

Mr. BISHOP: That is all.

Mr. SUMULONG and Mr. OPISSO: That is all.

Mr. OPISSO and Mr. SUMULONG: We renew as regards this witness the request and motion we made at the close of the testimony of the witness Sy Peng in the same manner as it appears on Page 144 of this record.

Mr. BISHOP: And we renew our statement and request as appears on Page 144 and 145 of this record.

The Vice-Consul states that the statement on Pages 145/146 made in conformity with the requests of the Attorneys for the Defendants and the Attorney for the Plaintiffs is equally applicable and has the same force with regard to the witness Yap Si Tan as it had with regard to the witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing to read an interpretation of Yap Si Tan's testimony to her in Chinese. Before the testimony was read to her the Vice-Consul informed her, through the Interpreter, that she could correct it in any particular if she wished to do so.

Testimony read to the witness by the Interpreter, and the Witness made no corrections; but on hearing the second answer from the bottom of Page 184 which reads "More than ten years" she  
363 made the state- "Whenever I say more than 10 years, I mean from 10 to 20 years."

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking of the deposition, and after having been advised by the Vice-Consul that she could correct it in any particular if she wished to do so, and after having corrected it in the one instance above noted, or rather having enlarged her answers as above stated, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury," she stated that she approved the same and that the same was correct, and signed it by making her mark after her name was written in Chinese characters by the Interpreter.

(Chinese characters.)

Witness:

(Sgd.) REA HANNA.



I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, in China, certify that the preceding is the deposition given before me on the 19th and 21st of September, 1906, by the Witness, Yap Si Tan, who before giving her testimony, took the prescribed oath to tell the truth, and after having her testimony read to her, and having been informed of her right to correct it in any particular if she desired, and having corrected it or rather having enlarged her answers as above stated and having been cautioned, 304 that if her testimony is found to be untrue, she is liable to the pains and penalties of perjury, signed her name by making her mark after her name was written in Chinese characters by the Interpreter, on finding it to be correct.

I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is a faithful expression of the testimony of the witness.

I also certify that the witness, after subscribing the same by making her mark, as above stated, took oath that the deposition subscribed by her, contains the truth, the whole truth, and nothing but truth.

In witness whereof, I have hereunto subscribed my hand and affixed the seal of this Consulate on the 21st day of September, 1906.

(Sgd.)

REA HANNA,

[CONSULAR SEAL.]

*Vice-Consul.*

Morning Session adjourned 12 A. M. September 21st, 1906, to 9:30 A. M. September 24th, 1906.

Morning Session, 9:30 a. m., September 24th, 1906.

All parties appearing as heretofore.

Plaintiffs call as their 5th witness Yap Chia.

305 YAP CHIA, sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case shall be the Truth, the whole Truth, and nothing but the Truth. So help you God."

The Defendants move that in addition to the Oath about to be administered to the Witness for the Plaintiffs, according to the Rules of this Consulate, this Witness be also sworn in the Chinese way, on the head of a white Rooster cut by the Witness himself at the time of taking his Oath and giving his Testimony.

Mr. BISHOP: We object to such proceedings and ask the same formality as with the Previous Witnesses.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the Witness than the one by which he now swears him.

The Defendants except to the Ruling of the Vice-Consul.

Yap Chia sworn through the Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

## Direct examination by Mr. BISHOP:

Question. What is your name?

A. Yap Chia.

Q. Where do you live?

A. Lao Poan.

Q. What is your occupation?

A. I have been a farmer and am now village Elder.

366 Q. How old are you?

A. 72.

Q. How long have you lived in the Lao Poan village?

A. Ever since I was born there.

Q. Did you know a woman by the name of Yap Puan Niu?

A. Yes. She was a cousin by the same grand-father and lived in the same house with me.

Q. How long did you and Yap Puan Niu live in the same house together?

A. She lived in the same house with me until she was married.

Q. State, if you know whom she married?

Defendants object because the question is incompetent.

Witness answers. She married Sy Quian of Am Thau village.

Q. State if you know, whether she had ever been married before.

Defendants object on the ground that the question is incompetent.

Witness answers. No. She was not. A certain member of my house was from Am Thau village, she made very diligent enquiries concerning Yap Puan Niu, the fact was, her Eight Characters had never been asked for and sent out of the house. The woman from Am Thau village was called "Im."

Q. What dialect do you speak—I mean of Chinese.

A. I don't understand your question.

Q. Do you speak the Amoy Dialect?

A. Yes.

367 Q. Do you speak any other dialects?

A. No.

Q. When was Yap Puan Niu and Sy Quian married?

Defendants object on the ground that the question is incompetent.

Witness answers. When she was about 20 or 21 years old.

Q. Who was older, you or Yap Puan Niu?

A. Yap Puan Niu.

Q. How old were you when Yap Puan Niu was married to Sy Quian?

A. I was about 12 or 13.

Q. How do you know they were married?

Defendants object because the question is incompetent.

Witness answers. Because I lived in the same house with Yap

Puan Niu, was present on the betrothal day and was present when the red chair came and when she left in that chair. On the last named occasion I was firing the big fire-crackers which were about the size of my two arms put together. (Witness putting out his arms to denote the size of the fire crackers.)

Q. State all you know about the betrothal.

A. At first enquiries were made by both sides as to the marriage status of the parties to be married, through the Mediator, this man had been abroad with Sy Quian. He declared that Sy Quian had never been married. When both sides agreed to make the Contract the Eight Chinese Characters of the girl were written on a  
368 paper and sent out of the house by the Mediator. Three days afterwards he came and said that the contract was accepted.

A day was then set for the betrothal, when presents consisting of sugar-candies, silks, bangles, and so forth were sent to the house of the future Bride and return presents were made in the customary manner.

Q. State all you know about that part of the marriage ceremony at which you were present.

Defendants object because the witness has already answered to what that question calls for and the question is furthermore leading.

Witness answers. On the day of the marriage the red chair party came, the Bride left in the red chair carried by four coolies, she took the lead, the next chair was that of the Mediator, the next in the procession was the man carrying lanterns, then the brother of the Bride. The father of the Bride on that day, with long Coat, accompanied the party to some distance; as was the custom he took a fan, dropped it purposely in front of the red chair and picked it up after the chair had passed over it. Immediately after this party left the house I set fire to the big-crackers I have hitherto described.

Q. Who was the Mediator?

A. Yap Hong.

Q. When did you next see Yap Puan Niu?

Defendants object because the question is leading.

Question withdrawn.

Q. Did you see Yap Puan Niu after that, if so, when?

A. On the 12th day after the marriage when she made a  
369 visit to her old house with Sy Quian.

Q. How long did they remain that time?

A. They came in the morning and left in the afternoon.

Q. State, if you know, what Sy Quian and Yap Puan Niu did upon that occasion, also what ceremony, if any was held.

Defendants object because the question is leading.

Question withdrawn.

Q. State if you know what was done upon that occasion.

Same objection.

Witness answers. They arrived, worshipped the family gods, and then retired into their room where they changed their clothes.

Q. State if you know where Sy Quian and Yap Puan Niu lived after their marriage.

A. They lived in Am Thau.

Q. How long did Sy Quian continue to live in Am Thau?

A. Three or four years.

Q. During this three or four years did you see Sy Quian and his wife?

A. Yes.

Q. About how often?

A. I saw Sy Quian 3 or 4 times a year. He had to pass by my house whenever he came down to Amoy? And he often dropped in to see his Father-in-law on his way to Amoy.

370 Q. State, if you know, where Sy Quian went after he left Am Thau.

A. He went to Luzon, or Manila.

Q. Did he ever return to Am Thau, if so when?

A. Several months after he left he came home as supercargo of a certain steamer, stayed more than ten days, and left again with that steamer.

Q. Do you know if he ever returned again or not?

A. Some ten years or more after he left the 2nd time he came home then, this was the last time he returned. Every time he returned he called to see his father-in-law, his mother-in-law having been dead.

Q. State, if you know, about how old Sy Quian was at the time of his marriage to Yap Puan Niu.

Defendants object because the question is decidedly incompetent, and further-more, leading.

Question withdrawn.

Q. Do you know how old Sy Quian was at the time of his marriage.

Defendants object because the question is incompetent.

Witness answers. He was four or five years older than Yap Puan Niu, he was about 25 years old.

Q. State, if you know, where Sy Quian had been living shortly before he married Yap Puan Niu.

A. Do you mean where he had been living after he returned to China? He had been in Manila and lived in Am Thau after his return.

Q. State, if you know, how long before the marriage had Sy Quian returned from Manila?

371 Defendants object because the question is leading.

Witness answers. Some months, 2 or 4.

Q. State, if you know, whether Sy Quian and his wife Yap Puan Niu had any children.

Defendants object because the question is incompetent, and leading.

Witness answers. Yes. The very next year after the marriage they had a son, Bi (Mi) Bo by name.

Q. How many children did they have altogether.

Defendants object on the same grounds as to the preceding question.

Witness answers. Two. The other one Bi (Mi) Git by name. These two I saw on their visit to their mother's old Home.

Q. When was Sy Bi (Mi) Git born?

Defendants object the question is incompetent.

Witness answers. The next year after Bi (Mi) Bo was born.

Q. When these two children were visiting at their mother's old home, who, if anyone, accompanied them?

A. Their mother.

Q. Is Sy Quian living or dead?

Defendants object because the question is incompetent.

Witness answers. He is dead.

Q. When did he die?

A. More than ten years ago.

Q. Where?

A. In Luzon he had never been Home since his 3rd return.

Q. Is his wife Yap Puan Nin living or dead?

372 Defendants object on the ground that the question is incompetent.

Witness answers. Also dead.

Q. Where did she die?

A. In Am Thau. I was present at her funeral.

Q. When did she die?

A. 15 or 16 years ago.

Q. Who died first Sy Quian or Yap Puan Nin?

The Defendants object because the question has already been answered by the Witness in the last two questions.

Witness answers. Sy Quian's wife died first.

Q. Where is she buried?

A. She was buried in a place called Hiun Suan Bo.

Q. Where was Sy Quian buried?

Defendants object because the question is incompetent, irrelevant and immaterial.

Witness answers. He died in Manila and must have been buried there.

The Defendants move that the answer just given by the witness be stricken out from the Record because it shows by itself that the Witness is incompetent to answer to the question put to him.

Q. Was the boy of Sy Quian brought back to China?

The Defendants object on the ground that the question is incompetent, irrelevant, and immaterial.

Witness answers. No.

Q. Where is their son Sy Bi (Mi) Bo?

A. He is dead.

373 Q. Where did he die?

A. In Am Thau.

Q. When did he die?

A. A long time ago. About 20 years or more.

Q. Who died first Sy Bi (Mi) Bo or his mother?

A. Sy Bi (Mi) Bo died first.

Q. Who died first Sy Bi (Mi) Bo or his father?

The Defendants object because the question is incompetent.

Witness answers. Sy Bi (Mi) Bo.

Q. Was Sy Bi (Mi) Bo married or single at the time of his death?

The Defendants object because the question is incompetent.

Witness answers. Yes. He was married.

Q. State if you know whom he married.

Same objection.

Witness answers. He married a girl of the Ho family of Wa Chu.

Q. Did you know her name?

A. Ho Gim Niu.

Q. Where is the wife of Sy Bi (Mi) Bo now?

A. She is also dead.

Q. When did she die?

Defendants object on the ground that the question is incompetent.

Witness answers. She died more than ten years ago. About 12 or 13.

Q. Where?

374 A. In Am Thau.

Q. About how old was Sy Bi (Mi) Bo when he got married?

Defendants object on the ground that the question is incompetent.

Witness answers. He was about 22 or 23 years old.

Q. Did Sy Bi (Mi) Bo and his wife have any children?

The Defendants object on the ground that the question is incompetent.

Witness answers. Yes.

Q. How many?

A. Two. One boy and one girl. This boy did not live long, and after his death a son was adopted.

Q. What was the name of the girl?

A. Hui Niu.

Q. When was she born in reference to the time of the marriage of Sy Bi (Mi) Bo?



The Defendants object on the ground that the question is incompetent and leading.

Witness answers. Three or four years after their marriage.

Q. What was the name of the adopted boy?

A. Sy Yoe Chai.

Q. When was he adopted in reference to the time of the marriage of Sy Bi (Mi) Bo?

A. One or two years after his marriage a son was born and after the death of this son Sy Yoe Chai was adopted.

Q. About how old was this child when it died?

375 The Defendants object because the question is incompetent.

A. Two or three months.

Q. Where is Sy Yoe Chai now?

A. He is not in China now but has gone abroad.

Q. Where is the girl, Sy Hui Niu?

A. She has been married in Au Chio Po, a village not far from the village of Kang Thau.

Q. Where is she now?

The Defendants object because the Witness has already answered to that question and to make it a second time makes the same leading.

Witness answers. She is dead.

Q. When did she die?

A. About the 5th moon or the 6th moon. She very seldom comes to my village. Notification of her death was sent to Am Thau.

Q. Did she have any children?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Yes. A boy of 7 or 8 years old.

Q. Where is that boy now?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. He is in Au Chio Po.

The Defendants move that all that the Witness has so far stated as regards Sy Hui Niu's birth, marriage and death be stricken out from the Record for it is incompetent, irrelevant, and principally immaterial.

376 Q. Where is the 2nd son of Sy Quian and Yap Puan Niu?

A. He is dead.

Q. What was his name?

A. The 2nd son was named Bi (Mi) Git.

Q. Where did he die?

A. In Am Thau.

Q. When?

A. More than 20 years ago.

Q. Who died first Sy Bi (Mi) Git or his mother and father.

The Defendants object because the Witness has already answered to that question in his preceding answer.

Witness answers. Bi (Mi) Git died first.

Q. Was Sy Bi (Mi) Git married or single at the time of his death?

Defendants object because the question is incompetent.

Witness answers. He was married.

Q. State if you know whom he married.

Same objection by the Defendants.

Witness answers. He married a girl of the Yap family of Sin La.

Q. Do you know her name?

A. Sung Niu.

Q. Where is the wife of Sy Bi (Mi) Git now?

A. She is also dead.

Q. When did she die?

A. 20 years or more ago about 21 or 22 years ago.

Q. Where?

A. In Am Than.

377 Q. About how old was Sy Bi (Mi) Git when he got married?

Defendants object on the ground that the question is incompetent.

A. He was more than 20 years old.

Q. Did Sy Bi (Mi) Bo and his wife have any children?

The Defendants object on the ground that the question is incompetent.

Question withdrawn.

Q. Did Sy Bi (Mi) Git and his wife have any children.

Same objection.

Witness answers. Yes. Two, one boy and one girl.

Q. Which was the older the boy or the girl?

Same objection.

Witness answers. The boy.

Q. When was he born in reference to the time of the marriage of Sy Bi (Mi) Git?

Same objection.

Witness answers. One or two years after the marriage of Sy Bi (Mi) Git.

Q. What is the name of the boy?

A. Ling, Sy Yoe Ling.

Q. Where is Sy Yoe Ling now?

A. He is in China.

Q. Do you know whether or not he is one of the parties of this action?

The Defendants object because the Witness is incompetent to answer the question.

378 Witness answers: Yes.

Morning session adjourned 12 M. until 2 P. M.

Afternoon Session, 2 p. m.

All parties appearing as before.

Continuation of direct examination of YAT CHIA by Mr. BRIDGES:

Question. About how old is Sy Yoc Lang?

The Defendants object on the ground that the question is incompetent.

Witness answers. More than 30 years old.

Q. What is the name of the girl of Sy Bi (Mi) Gut and his wife?

A. Chino Nin.

Q. When was she born in reference to the time of the marriage of her parents?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. She was born after Sy Yoc Ling.

Q. Where is she now?

Same objection.

Witness answers. Married into Che Chium village, a village more than 20 li away from mine.

Mr. BRIDGES: That is all.

379 Cross-examination of YAT CHIA by Messrs. OPISSE and SUM-ULONG:

Question. How do you know you are 72 years old?

A. My birthday is always celebrated. A man always knows his own age does he not?

Q. Therefore the only reason you have to know your present age is because they celebrate your birthday, is not?

A. I remember my age very well. I can at least count the addition of one age every year. Since I was given to understand what my age was once by my parents.

Q. What year were you born, both dynasty and cycle?

A. I was born in the year of the sheep, in the reign of the Emperor Tao Kuang. I do not read, and therefore cannot tell the exact year of the Emperor's reign. I mean the year I was born in.

Q. What Cycle was that, the present cycle, or the former cycle?

A. I know the year representing the animal in which I was born and my age. I do not know what Cycle.

Q. How many sheep years have you had?

A. The same year comes once in every 12 years. 12 years after

I was born another Sheep year occurred and another 24 years after the year of my birth and so on. So there have been six such years.

Q. What is the present year?

A. I don't know.

Q. Therefore you do not know the year you are living in  
380 at present, do you?

A. No. I don't know.

Q. How do you then know when the Sheep year comes?

A. The Sheep year as I have said occurs once in every 12th year.

Q. You do not answer the question I will repeat it to you. How do you know when you are in the Sheep year?

A. I was once told by my mother that the year I was born in was that of the Sheep, I counted from then that my age at present is 72, I cannot count any given age; if you should give me, for instance, the age of 48 or 56 I could not count them.

Q. How many years more have to elapse before entering into the Sheep year from now?

A. I don't understand it. You should give me the name of the present year.

Q. Therefore you do not know when the Sheep year is coming again do you?

A. 12 years from this year.

Q. What moon were you born in?

A. The 12th moon.

Q. If you say that 12 years from now will be the sheep year and have it stated here twice under Oath that you do not know the year you are in at the present time, on what have you based your calculation to say that 12 years from now will be the Sheep year, what is your basis?

A. On the basis that the same year comes around once in every  
12 years. If I can read I can tell you what the present  
381 year is.

Q. But you personally do not know when that year comes and only when asked, "when will the year come" you have to count your fingers, and make a calculation, otherwise you are completely ignorant as to when it comes.

A. I don't know even the present year.

Q. You said that you are one of the Elders of the village of Lao Poan?

A. Yes.

Q. What rank do you hold among the Elders?

A. The Elders in my village have their respective jurisdiction called "Ka."

Q. What rank do you hold among the Elders?

A. I have no rank whatsoever.

Q. Do you hold any office, or fulfill any duties in Lao Poan?

A. I hold no Official office, but the Elders all meet in the education institution in Ho San when they have occasion to meet.

Q. But you do not go there, do you?

A. Yes.

Q. In what capacity?

A. Every time I go there when I am invited.

Q. Therefore you only go there by invitation and not to take part in the meetings as an Official.

A. Yes. I take part in the meetings and that is exactly what they invite me to go there for.

Q. What is your business there?

382 A. Some time we have before the meeting the question of raising a public donation and sometimes we have before the meeting the question of distributing night watchmen over the village.

Q. When did you first go to Lao Poan?

A. I do not understand the question, where do you mean?

Q. We mean exactly what we say, when did you first go to Lao Poan for the first time?

A. I was born in Lao Poan, have lived in Lao Poan and worked in Lao Poan.

Q. You have never left Lao Poan have you?

A. Yes, I have left Lao Poan. I have gone out of Lao Poan on various occasions; you surely do not expect me to have sat in Lao Poan, or to have been imprisoned there until now.

Q. We do not want you to be in prison at all. Have you ever been in Am Thau?

A. Yes, I have been there. On visits to my cousin's Yap Puan Niu.

Q. How old were you the first time you were there?

A. About 50 or 60 years old.

Q. And you had never been in Am Thau before, that was the first time was it not?

A. That was the first time, I had never been there before.

Q. Did you say you went there to see Yap Puan Niu?

A. Yes.

Q. How old was she then?

383 A. She was more than 60 years old.

Q. How long after that first time you were there did you go to Am Thau again to see Yap Puan Niu?

A. The next time I went there was when I went to attend her funeral.

Q. How long after was that.

A. Several years, 3 or 4.

Q. How old were you?

A. What time do you mean?

Q. When you attend her funeral.

A. More than 50 years old.

Q. 56?

A. 56.

Q. No more, no less?

A. No more.

Q. How do you know you were 56.

A. I remember it.

Q. How do you remember?

A. I can remember it

Q. You did not remember it the first time I asked you.

A. I said more than 50 years ago.

Q. When did Yap Puan Niu die?

A. More than 60 years ago.

Q. How old was she?

A. She was more than 60 years old. She has been dead more than ten years.

Q. How did you state here under you- Oath in answer to the question "When did Yap Puan Niu die," answer that she  
384 died more than 60 years ago?

A. I meant she died when she was more than 60 years old and has been dead more than ten years. Had she died more than 60 years ago her age at the time of her death would be something more than 10 years old, how could it be possible for her to have children then.

Q. How much more than ten years ago did Yap Puan Niu die?

A. 15 or 16 years ago.

Q. You do not remember the exact date do you?

A. 16 years exactly.

Q. What moon?

A. I don't remember the moon. I did not keep any account of her death.

Q. Have you been keeping computation of her age?

A. No.

Q. How then can you state here as a matter of your own knowledge Yap Puan Niu's age at the different stages of her life, if you have never kept any computation of her age?

A. I can remember that she was so many years older than myself and counted her age from mine accordingly.

Q. If you know exactly the difference in years between you and Yap Puan Niu please tell us the year Yap Puan Niu was born.

A. As I have told you I cannot read and therefore cannot tell you the name of the year she was born in.

Q. Who was the elder you or she?

A. She was older.

385 Q. You said Yap Puan Niu when she died was over 60 years old we should like to know now the exact age at her death.

A. She was either 64 or 65 years old at the time of her death.

Q. You said that Sy Quian had been living here in China for three or four months before the marriage of Yap Puan Niu.

A. Yes.

Q. How long after Sy Quian arrived in China did the marriage negotiations begin?

A. The Contract was made before Sy Quian came to China.

Q. Is it not true then that the marriage negotiations had been taking place for several years before Sy Quian arrived in China to be married?

A. Not that long.

Q. How long?

A. Several months.



Q. Two or three months?

A. Yes.

Q. How long before Sy Quian's arrival in China were the marriage letters exchanged between the two families?

A. After they were exchanged the letter was sent to call him to come home to marry.

Q. How long did it take the Mediator to bring the two families to an understanding and have the letters exchanged?

386 A. A month or two.

Q. When were presents sent to Yap Puan Niu, before Sy Quian's arrival, or after he arrived himself?

A. Before his arrival.

Q. How long after exchanging the presents was the marriage set to take place?

A. Three or four months. It was after the betrothal ceremony that a letter was sent to call Sy Quian to come Home.

Q. If you say you are now 72 years old, then when the marriage of Sy Quian with Yap Puan took place you should be 8 years old, how then being of so little age did you come to learn and take part of those things which only are left to the family Heads and into which Children have nothing to do with and do not interfere, even the interested parties?

A. Every thing I saw I remembered. I was down here in Amoy when I was 7 years old and I remember it was the year the foreign troops landed here, another thing I was more than 8 years old at that time.

Q. Did you take part in any discussion then regarding Yap Puan's marriage, was your opinion asked about it.

A. I took no part in the discussion regarding Yap Puan Niu's marriage but I was in the house when such discussion took place by the elder members of the house.

Q. Did you enquire personally regarding the status of Sy Quian before his marriage?

A. No. I did not do it, it was done by the elder members of the family.

387 Q. Who were present on the day that they decided to send the eight Chinese characters of Yap Puan Niu to the other side?

A. A lot of persons, 30 or 40 including both sexes.

Q. Did all those 30 or 40 persons live on the same house or in other houses?

A. All in the same house.

Q. Did you have any conversation with the Mediator, personally about this affair, and about who he was, what his business was, what he had been doing and where he had been?

A. This Mediator also lived in the same house.

Q. Who decided on the Mediator, Sy Quian's family or Yap Puan Niu's family? Who chose him?

A. He was chosen by the Sy Quian's family to come to make enquiries about the girl Yap Puan Niu, and whether she would marry him.

Q. The Mediator always lived in the same house as you and Yap Puan did he not?

A. Yes.

Q. How do you know that he was the Mediator? Did he tell you he was?

A. He was in the special chair for the Mediator.

Q. But you never knew him to be such, therefore, until you saw him in the Mediator's chair, is not that correct?

A. Yes I knew. How could I help but knowing it when I was living in the same house.

388 Q. From the first time you knew Yap Ho up to the time of Sy Quian's marriage did Yap Ho ever leave Lao Poan?

A. He had left Lao Poan certainly. He had been abroad too.

Q. Did Yap Puan Niu have any adopted children?

A. No.

Q. Did she ever adopt any child for anybody?

A. No.

Q. How long did Yap Ho stay abroad?

A. Mr. Bishop: Objected to on the ground that it is not cross-examination.

Witness answers I do not know when he went abroad first. He left Home when I was quite young.

Q. How many times did you say Sy Quian came to China?

A. He came Home to be married, came home as the supercargo and came home again after that, so that was three times altogether.

Q. What was the name of the boat he came as supercargo on?

A. I don't know.

Q. How long did Sy Quian remain in China after he came the 3rd time?

A. Not very long. He stayed over a year.

Q. But not very much over a year did he?

A. No. He did not stay very long after a year.

Q. How many natural born children did Sy Bi (Mi) Bo have with his wife, Ho Gim Niu?

A. He had a natural born son, but this son died soon after he was born, so he had a son adopted?

389 Q. How many in all did he have?

A. He had one natural born daughter.

Q. No more?

A. And Sy Yoc Chai, the adopted child.

Q. What was Sy Yoc Chai's name before he was adopted?

A. He was a baby in arms when he was adopted, nobody knows what his name was before he was adopted.

Q. How old was Sy Quian the first time he left China to go abroad?

A. I don't know. I did not know anything about him at that time.

Q. If you then did not know anything about Sy Quian at that time, when did you, for the first time, ever know anything about Sy Quian?

A. It was at the time when he became a relative of my house.

Q. You mean the time he was married into your family?

A. Yes.

Q. That is to say the day he married Yap Puan?

Mr. BISHOP: I do not think that we ought to be required to sit here and listen to a lot of repetition.

Witness answers, Yes.

Q. Did you attend to either Sy Bi (Mi) Bo or Sy Bi (Mi) Git's wedding?

A. No. I sent them presents, but was not present at their weddings.

Q. Did you ever see them after they were married.

A. Yes.

390 Q. Did you attend to their funerals?

A. No. They were not entitled to have me present.

Q. How do you know that Sy Bi (Mi) Bo and Sy Bi (Mi) Git were children of Yap Puan Niu?

A. I saw them when she took them to visit my house.

Q. Did you not see them at Am Thau?

A. No.

Q. Not even once while they were living at Am Thau?

A. No.

Q. Where were they? Or is it that you did not call on them?

A. I never called on them.

Mr. OPISSO: That is all.

Redirect examination by Mr. BISHOP:

Mr. BISHOP: I ask leave to ask a few questions which are properly direct examination, but could not do so during the direct examination of this witness as Sy Yoe Ling was out of the city.

Question. Do you know the Plaintiff?

A. Yes. That is the man (Witness pointing to the Plaintiff sitting at the end of the room.)

Q. What relation, if any, is this man to Sy Bi (Mi) Git?

Defendants object on the ground that the question is incompetent.

Witness answers, Sy Bi (Mi) Git is the father of Sy Yoe Ling.

391 Q. What relation if any is the party you have just pointed out to the Sy Quian and Yap Puan Niu whom you referred to in your testimony?

Same objection from the Defendants.

Witness answers, Sy Quian and Yap Puan Niu are the grandfather and grandmother respectively of him, the party I pointed out.

Mr. BISHOP: That is all.

Mr. OPISSO: That is all.

Mr. OPISSO and Mr. SUMULONG: We renew as regards this Witness the request and motion we made at the close of the testimony

of the Witness Sy Peng in the same manner as it appears on Page 144 of this Record.

Mr. Bishop: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146 made in conformity with the requests of the Attorneys for the Defendants and the Attorney for the Plaintiffs is equally applicable and has the same force with regard to the Witness Yap Chia as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing to read an interpretation of Yap Chia's testimony to him in Chinese. Before the testimony was read to him, the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter, and the Witness made no corrections.

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking

392 of the Deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having stated that he found it to be correct in every particular, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury," he stated that he approved the same and that the same was correct, and he signed it by making his mark, after his name was written in Chinese characters by the Interpreter.

(Chinese characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, In China, certify that the preceding is the Deposition given before me on the 24th of September, 1906, by the Witness, Yap Chia, who before giving his testimony, took the prescribed oath to tell the truth, and after having his testimony read to him and having been informed of his right to correct it in any particular if he desired, and having approved the same without making any correction, and having been cautioned that if his testimony is found to be untrue he is liable to the pains and penalties of perjury, signed his name by making his mark, after his name was written in Chinese characters by the Interpreter, on finding it to be correct.

393 I also certify that this Deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is a faithful expression of the testimony of the Witness.

I also certify that the Witness, after subscribing the same by making his mark, as above stated, took oath that the Deposition subscribed by him contained the truth, the whole truth, and nothing but the truth.

In witness whereof I have hereunto subscribed my hand and affixed the Seal of this Consulate on this 24th day of September, 1906.

[CONSULAR SEAL.]

(Sgd.)

REA HANNA,  
Vice-Consul.

Afternoon session adjourned at 5:30 p. m., September 24, 1906, to 8:30 a. m., September 25, 1906.

Morning Session, 8:30 a. m., September 25, 1906.

All parties appearing as heretofore.

Plaintiffs call as their Sixth Witness Sy Kai Tit.

Sy Kai Tit sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth. So help you God."

Defendants move that in addition to the oath about to be administered to the Witness for the Plaintiffs, according to the rule of this Consulate, that this Witness be also sworn in the Chinese way, on the head of a white Rooster, cut by the witness himself at the time of giving his testimony and taking his oath.

Mr. BISHOP: Objected to for the reason that no such oath or formality is known to the laws of the United States, Philippine Islands, or China.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the witness than the one by which he now swears him.

The Defendants except to the ruling of the Vice-Consul.

Sy KAI TIT, sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Direct examination by Mr. BISHOP:

Question. What is your name?

A. Sy Kai Git.

Q. Where do you live?

A. Na Au.

Q. What is your occupation?

A. Elder of the village.

Q. How old are you?

A. 71 years old.

Q. How long have you lived in Na Au?

A. Ever since I was born there.

395 Q. Do you know the village of Am Thau?

A. Yes, I do.

Q. How far is it from your village?

A. 600 or 700 steps.

Q. To what Clan do you belong?

A. To the Sy Clan.

Q. Were you acquainted with Sy Quian?

The Defendants object on the ground that the question is leading.

Witness answers. Yes. We were acquainted?

Q. How long did you know Sy Quian?

A. The first time I knew him was when he came home to be married.

Q. About how old was he at that time?

Defendants object on the ground that the question is incompetent, and the witness, by his previous answer, has declared himself to be incompetent to answer it.

Witness answers. He was 25 years old.

Q. At the time he came home, state, if you know, whether he was married or single?

Defendants object on the same grounds as to the former question.

Witness answers. He had not been married.

Q. State whether or not he was married at any time during your acquaintance with him.

The defendants object on the same ground as to the former question.

Witness answers. He came Home from abroad for the special purpose of getting married. He had not been married.

396 Q. State whether or not he did get married?

A. Yes he did.

Q. State with whom.

A. Yap Puan Niu of Lao Poan.

Q. When?

Defendants object on the ground that the question is incompetent.

Witness answers. When he was 25 years old.

Q. How long after he had returned from abroad?

A. Only a few months after he came back from abroad did he marry the girl of his father's choice.

Q. Where?

A. In Am Thau.

Q. How do you know?

A. I got the information from Sy Quian's father, who was my Clansman.

Defendants move that all what the witness has stated heretofore regarding Sy Quian's marriage and his purpose of returning to China be stricken out of the Record on the ground that the witness has shown himself to be incompetent to testify to it because all he knows is mere hearsay.

Q. Were you present at the marriage?

Mr. O'Risso: We object to the question because all what the witness can testify as regarding this point is hearsay. The question is furthermore leading.



Question withdrawn.

—, State whether or not you were present at the marriage of Sy Quian and Yap Puan Niu.

397 Same objection by the Defendants.

Witness answers. Yes, I was present.

Q. Describe briefly the marriage ceremony so far as in your personal knowledge.

Defendants object on the ground that the Witness' testimony is not the best evidence, the question is incompetent, irrelevant and immaterial.

Witness answers. As I have stated all Negotiations by the Mediator, bethothal ceremony, and so forth all took place prior to the return of Sy Quian to China. In the day of the marriage the Red Chair party left the house for the house of the Bride, the Mediator's chair took the lead while the empty red chair was the last in the procession on the way to the Bride's house. On the arrival of the Bride in this chair Sy Quian dressed in his Official Costume and with his official hat on, received his Bride. They worshipped the Supreme Being of Heaven and were thus married.

Q. State if you know whether they had any children.

Defendants object on the same grounds as to the former question.

A. Yes.

Q. How many?

Same objection.

Witness answers. Two, one Bi (Mi) Bo and the other Bi (Mi) Git by name.

Q. Which one was the older?

A. Same objection by the Defendants.

398 Witness answers. Bi (Mi) Bo was the elder.

Q. When was Sy Bi (Mi) Bo born in reference to the time of the marriage of his parents?

Same objection by Defendants.

Witness answers. He married when he was 25 years old. In his 26th year Sy Bi (Mi) Bo was born, and the year following was Sy Bi (Mi) Git born.

The Defendants move that the last part of the witness' answer be stricken out because it is incompetent and not responsive to the question.

Q. When was Sy Bi (Mi) Git born in reference to the marriage of the parents?

Defendants object on the ground that the witness is incompetent.

Witness answers. Two years after the marriage.

Q. How long did you know these two children, Sy Bi (Mi) Bo and Sy Bi (Mi) Git?

Defendants object on the ground that the question is leading.

Witness answers. I knew them since they were mere boys. I used to visit their home quite often.

Q. How long did Sy Quian remain in Am Thau after his marriage?

A. Three or four years. Then he went abroad again.

Q. During this three or four years were you ever in the house of Sy Quian and Yap Puan Niu, his wife?

A. I was in the house during these three or four years almost every day. I had nothing to do then and went there to have a chat with him.

399 Q. How did you know that they had these two children?

A. By reason of my visits as I have stated and by reason of the cakes and so forth which I received on the births of these two children as notification thereof.

Q. Who lived in the house where Sy Quian and Yap Puan Niu lived, state if you know.

The Defendants object on the ground that the question is immaterial.

Witness answers. His parents and his younger brother.

Q. State if you know how Sy Quian treated Yap Puan Niu while they were living together in the same house.

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. They lived very nicely together.

Q. State if you know what capacity Yap Puan Niu occupied in that house.

A. She occupied the position of a daughter-in-law and attended to all the household matters as a wife.

Q. As a wife of whom.

The Defendants object on the ground that the question is incompetent and leading.

Witness answers. Sy Quian's wife.

Q. Where is Sy Quian now?

A. He is dead in Manila.

Q. About how long ago?

A. The Defendants object on the ground that the question is incompetent and calls for hearsay testimony.

400 Witness answers. About 13 or 14 years ago.

Q. Where is Yap Puan Niu now?

A. She is also dead.

Q. When did she die?

The Defendants object on the ground the question is incompetent and not the best evidence.

Witness answers. She has been dead 15 or 16 years.

Q. State if you know where Sy Bi (Mi) Bo is.

A. He is also dead.

Q. When did he die?

The Defendants object on the ground that the question is incompetent and does not call for the best evidence.

Witness answers. He has been dead some 20 years or more.

Q. How long did you know Sy Bi (Mi) Bo during his life time?

The Defendants object on the grounds that the witness has already answered to the identical question as that put to him now.

Witness answers. I knew him since he was a mere boy up to the time of his death.

Q. State if you know whether he was married or single at the time of his death.

The Defendants object because the question is incompetent and does not call for the best evidence.

Witness answers. He was married.

Q. Where did he die?

A. In Am Than.

Q. About how old was he at the time of his death?

401 The Defendants object on the ground the question is incompetent and does not call for the best evidence.

Witness answers. He was more than 30 years old at the time of his death.

Q. When did he die in reference to the time of the death of his mother.

Mr. Ogrisso: The witness's answer will not be the best evidence to that point. We object to that question.

Witness answers. Bi (Mi) Bo died before his mother.

Q. How do you know he was married at the time of his death.

A. I was present at his wedding.

Q. Whom did he marry?

A. He married a girl of the Ho family.

Q. What was her name?

A. Let me think a moment. Ho Gim Niu.

Q. Describe the marriage ceremony briefly so far — it is within your personal knowledge of Sy Bi (Mi) Bo and Ho Gim Niu.

The Defendants object on the ground that the witness' testimony is not the best evidence of Sy Bi (Mi) Bo's status.

Witness answers. Negotiations were made through the Mediator and when they arrived at their final decisions a day was set for the betrothal, followed by the day set for the marriage.

On the day of the marriage the Red Chair Party was sent to meet the Bride and on her arrival in the red Chair she was met by the Groom in his house, they worshipped the Supreme Being of

402 Heaven and were thus married among the firing of fire-crackers.

Q. State, if you know, where Sy Bi (Mi) Bo and his wife lived after the marriage?

A. In Am Thau.

Q. In whose house?

A. In the same house his father, his grandfather, and so forth had lived.

Q. State if you know whether they had any children, if so how many.

Defendants object on the ground that the question is incompetent.

Witness answers. Yes. They had two. One Sy Yoc Chai. This was an adopted boy. They had a natural boy that died, and on his death Yoc Chai was adopted, the other was a girl.

Q. What was her name?

A. Sy Hui Niu.

Q. When was the boy, that died, born in reference to the time of the marriage?

The Defendants object on the ground that the question is incompetent.

Witness answers. A year or so after their marriage the boy was born, on whose death Yoc Chai was adopted.

Q. About how old would this boy be now?

The Defendants object on the same ground as to the former question.

Witness answers. He died a very short time after he was born.

403 Q. About how old is Sy Yoc Chai now?

The Defendants object on the ground that the question is decidedly incompetent.

Witness answers. He is more than 30 years old.

Q. Where is he now?

A. He is abroad.

Q. What was the name of the girl?

The Defendants object because the question is a repetition.

Question withdrawn.

Q. Where is Sy Hui Niu now?

The Defendants object on the ground that the question is immaterial.

Witness answers. In Au Chio Po.

Married into a Siao family.

Q. Is she living or dead?

The Defendants object on the ground that the question is leading, the answers called for is implied in the witness' preceding answer, and furthermore it is immaterial.

Witness answers. She is dead. She has been dead for more than two months.

Q. State if you know, whether she had any children at the time of her death.

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Yes. She had a son of about 7 or 8 years old now.

Q. Where is that son now?

Defendants object on the ground that the question is  
404 immaterial.

Witness answers. He is in Au Chio Po.

Q. When was this boy born in reference to the time of the marriage of his parents?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Ten years or more after the marriage of his parents was the boy born.

Q. Where is his father?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. He is in Au Chio Po.

Q. State, if you know, where Sy Bi (Mi) Git is.

A. He is abroad. No. Bi (Mi) Git is dead.

Q. When did he die?

A. Sy Bi (Mi) Git has been dead about 50 years now.

Q. Where did he die?

A. In Am Thau. From the date of his birth until now is 50 years but he has been dead more than 10 years. No. More than 20 years.

Q. When did he die in reference to the time of the death of his mother?

A. He died before his mother.

Q. How long did you know Sy Bi (Mi) Git during his life-time?

The Defendants object on the ground that this is the 3rd time the question is made.

Witness answers. Ever since he was a boy up to the time of his death.

405 Q. State if you know whether he was married or single at the time of his death.

The Defendants object on the ground that the question is incompetent and not calling for the best evidence.

Witness answers. Sy Bi (Mi) Git was married and had children.

The Defendants move that the last part of the Witness's answer be stricken out for incompetence and not being responsive to the question.

Q. Where did he die?

A. In Am Thau.

Q. When was he married; state if you know.

The Defendants object because the Witness' Testimony is not the best evidence.

Witness answers. When he was 21 years old or more.

Q. How do you know he was married at the time of his death?

A. By reason of the fact that I was there to assist him in making preparations for the marriage & was present at his wedding Feast.

Q. Whom did he marry?

The Defendants object because it does not call for the best evidence.

Witness answers. He married a girl of the Sin Lo village Yap Sung Niu, by name.

Q. Describe the marriage ceremonies briefly, so far as it is in your personal knowledge, of Sy Bi (Mi) Git and Yap Sung Niu.

The Defendants object on the ground that the witness' 406 Testimony is not the best evidence of Sy Bi (Mi) Git's marriage.

Witness answers. The Ceremony is precisely the same as that of his elder brother as I have described it.

Q. At how much of the ceremony were you present?

A. I was present from beginning to end.

Q. Describe that ceremony briefly.

The Defendants object because the question has already been put to the Witness and the Witness has already answered it.

Witness answers. On the day of the marriage the Red Chair party was sent to meet the Bride, and on her arrival in the Red Chair she was met by the groom in Official Costume, and so forth, in his house. They worshipped Heaven and Earth and were thus married amid the firing of fire-crackers.

Q. State, if you know, how this marriage was arranged or brought about.

The Defendants object on the ground that the question is incompetent irrelevant and immaterial and not calling for the best testimony.

Witness answers. Inquiries as usual were made through the Mediator, whose name I forget just now, as regards the marriage status of the interested parties. When satisfactory conclusions were arrived at, the day was set for the betrothal, according to the custom and manners prevailing here.

Q. Was Cy Bi (Mi) Git married or single at the time he married Yap Sung Niu?

407 The Defendants object on the ground that the question is incompetent.

Witness answers. He had not been married.

Q. Was Yap Sung Niu married or single at the time of her marriage to Sy Bi (Mi) Git?

The Defendants object on the ground that the question is incompetent.

Witness answers. She was not married.



Q. Where did Sy Bi (Mi) Git and his wife live after their marriage.

A. In Am Thau.

Q. In whose house.

A. In his own house. At that time they had a new house in Am Thau.

Q. State if you know who else lived in that house.

The Defendants object because the question is leading, irrelevant and immaterial.

Mr. BISHOP: Add to my question, if anyone.

Objection still stands.

Witness answers. A good many persons. His uncle, his uncle's wife and others.

Q. Where was that house in reference to the house where Sy Quian and his family lived?

Defendants object on the ground that the question is irrelevant and immaterial.

Witness answers. In the same village, about a hundred steps or more from Sy Quian's old house. This new house has two principal departments and four wings.

Q. During the time that Sy Bi (Mi) Git lived in that house, where did his father and mother and brother live?

The Defendants object on the ground that the question is irrelevant and immaterial.

Witness answers. At the present, most of them are dead, and their tablets are in this new house.

Q. Where did Sy Quian live—in what house?

A. Do you mean at the time of his marriage.

Q. Yes.

The Defendants object because the Witness has already answered to the question.

Witness answers. His old house in the same village.

Q. Where did he live afterwards?

The Defendants object on the ground that the question is leading and the Witness has already testified as to that point.

Witness answers. When he was married he lived in the old house of his, his sons were both married in his new house.

Q. And where did they live after they were married. In what house.

The Defendants object because this question is certainly a leading one. A question to the same tenor has been put to the Witness about three or four times already.

Witness answers. In the same house where they were married and in the same village.

Q. State if you know whether Sy Mi (Mi) Git and his wife had any children, and if so, how many.

A. Yes, Si Bi (Mi) Git had, Sy Yoc Chai. No, Sy Yoc Ling and Chiao Niu.

409 Q. Where is Sy Yoc Ling now?

A. He is in Amoy.

Q. Do you know whether or not he is one of the Plaintiffs in this action.

The Defendants object on the ground that the question is incompetent.

Witness answers. Yes. He is one of the Plaintiffs.

Q. About how old is he now?

The same objection by the Defendants.

Witness answers. He is about 30 years or more.

Q. Where is Chiao Niu now?

A. She is now in Che Chiung.

Q. You stated that Sy Quian had a younger brother what is his name?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. This younger brother of Sy Quian's I referred to died quite young.

Q. State if you know whether Sy Quian had any brothers or sisters now living.

A. He has one younger brother.

Q. What is his name?

A. Sy Hien.

Q. Where is he?

A. In Manila.

Q. When was Sy Yoc Ling born in reference to the time of the marriage of his parents?

The Defendants object on the ground that the question is incompetent.

410 Witness answers. He was born two or three years after the marriage of his parents.

Q. When was his sister Chiao Niu born?

The Defendants object on the ground that the question is incompetent and immaterial.

Witness answers. Seven or eight years after the birth of Yoc Ling.

Q. Was Sy Bi (Mi) Bo married or single at the time of his marriage?

The Defendants object on the ground that the question is incompetent.

Witness answers. No, he was not married.

Q. Was Ho Gim Niu married or single at the time of her marriage to Sy Bi (Mi) Bo.

A. She was not married.

Q. About how old was she at the time of her marriage?

A. The Defendants object on the ground that the question is incompetent.

Witness answers. She was about 18 or 19 at that time.

Q. About how old was Yap Sung Niu at the time of her marriage with Sy Bi (Mi) Git?

The Defendants object on the same grounds as the former question.

Witness answers. She was in her teens.

Q. Are you acquainted with the people who live in Am Thau?

A. Yes.

411 Q. How well acquainted are you with the people of the village and for how long a time?

A. Very well.

Q. And for how long a time?

A. I do not know how long but very long.

Q. During the time that you have been acquainted with the people of this village of Am Thau, how many men have lived there by the name of Sy Quian.

The Defendants object on the ground that question is rather leading.

Witness answers. Only one. He was well known over the village.

Q. Who was that Sy Quian?

A. He was Am Thau.

Q. What relation if any was this Sy Quian to the Sy Quian you have mentioned in your testimony?

The Defendants object because the question, although clothed with the words "if any" is a leading one.

Witness answers. He is of the same village, namely Am Thau.

Q. Is he or is he not the same person that you have mentioned in your testimony?

Mr. OPISSO and Mr. SUMULONG protest of the manner in which this decidedly leading question is put to the Witness and object to the question.

Witness answers. Yes. The same person.

Mr. BISHOP: That is all.

412 Cross-examination of SY KAI TIT by Messrs. OPISSO and SUMULONG:

Question. How many Mediators intervened in Yap Puan Niu's marriage?

A. Only one.

Q. What was his name?

A. Yap Hong.

Q. You said that Sy Bi (Mi) Git lived with his Uncle and his Uncle's wife what was the Uncle's name?

A. Sy Quian had one brother named Sy Tai and another named Sy Hien.

Q. You do not answer the question. Who was that uncle Sy Bi (Mij) Git was living with when he married?

A. He had two brothers and no more Sy Tai and Sy Hien.

Q. Which one of these only two brothers of Sy Quian died?

A. Sy Tai.

Q. At what age?

A. About 60 or 70.

Q. Who was that one who died very young?

A. I forget his name.

Q. Is that the one that was living with Sy Bi (Mij) Git after the latter's marriage?

A. Yes.

Q. You say you are 71 years old?

A. Yes.

Q. How do you know?

413. A. Yes I know my own age. When I was a boy my birthday was celebrated by my parents and later on by my wife and children up to now. It would be funny if a man cannot know his age.

Q. What year were you born? Dynasty and Cycle.

A. I was born in the reign of Tao Kuang.

Q. What year of the reign?

A. About the 14th or 15th year of the reign of Tao Kuang.

Q. What Cycle year?

A. I don't know.

Q. Don't you know the Cycle year?

A. No I don't know them.

Q. Is it not more customary for the people of the village to count the years by cycles than by Dynasties?

A. I don't read myself so I don't know.

Q. In spite of the fact that you say you are one of the elders of your village.

A. The duties of an Elder are to settle local disputes only.

Q. When did you first know Sy Quian?

A. When he came home from abroad to be married.

Q. How old were you at that time?

A. 11 or 12.

Q. Did you go to all the ceremonies of Sy Quian's marriage?

A. Yes.

Q. To each and every one?

A. Yes.

414. Q. Was you consulted by the Mediator as to Sy Quian's marriage?

A. It is the father and mother of Sy Quian that were consulted by the Mediator on the subject.

Q. Did you take part in any of those conversations?

A. I was present when the negotiations such as forth took place.

Q. Did you take part in them?

A. I was helping there doing what job I could.

Q. You still have not answered the question. Did you take any part in the discussion?

A. Yes, I took part.

Q. Did you not say just a moment ago that it was only Sy Quian's parents who took the negotiations up with the Mediator?

A. Yes, I did say that. His parents were the oldest members of the family and therefore they had the deciding authority in the matter. Some of the younger ones were then in Manila, the part I took was to do what little I could then in the way of making enquiries.

Q. And you were then only a 12 year old boy.

A. About that age.

Q. What kind of information and enquiries did you make?

A. The enquiries I had been making was to ascertain whether the girl had been married before. And so forth.

Morning session adjourned 12 M. until 2 P. M.

415 Afternoon Session, 2 p. m., September 25, 1906.

Continuation of cross-examination of SYKAI TIT by Messrs. CHINSE and SEMULONG.

All parties appearing as heretofore.

Q. From whom did you make those inquiries?

A. I made the inquiries from some relatives of mine who lived at that time in Lao Poan.

Q. Who commissioned you especially to make those inquiries?

A. Sy Quian's father, Yan by name.

Q. Did you live in the same house with him?

A. No, not in the same house but in the same vicinity.

Q. And these people were relatives of yours, those who were in Lao Poan and from whom you made those inquiries about Yap Puan Nin, were they?

A. Yes.

Q. What were their names?

A. Yeng.

Q. Why were they living in Lao Poan?

A. Whom do you mean.

Q. Those relatives of yours.

Q. This woman was married in Lao Poan.

Q. Did you make a formal report before the family council and the Mediator after you found out those things?

A. I reported the result to Sy Quian's father.

Q. Then Sy Quian's father, from what you say, did not have much confidence in Yap Puan did he?

416 A. Sy Quian's father had to make enquiry any way, he was old, did not like to go himself, so he sent me as a boy to do it for him.

Q. And do you want us to believe that an old man, like Sy Quian's father, with plenty of people to resort to, with more age and more

discretion than a young man of 12 years old, would apply to you, a young boy of 12 years, and send you an errand as important as that, and as diplomatic as that?

Mr. BISHOP: Would suggest that the Witness be cross-examined by questions.

Witness answers. But he sent me to make the enquiry all right.

Q. What office did Sy Quian hold at the time of his marriage?

A. None.

Q. What was he?

A. He was a man who had been abroad to earn his living, he was no Official.

Q. When did you first see Sy Bi (Mi) Bo?

A. Sy Bi (Mi) Bo was born the next year after the marriage of his parents, and in the following year was Sy Bi (Mi) Git born.

Q. Please answer the question.

A. Since he was a baby in arms.

Q. When did you see him next?

A. I saw him almost every day, I could not say when was the next time.

417 Q. Up to when?

A. Up to the time of his death after having married a wife.

Q. And during all that time, as you said in your direct examination your only occupation was just to be calling on Sy Quian's house, was not it?

Mr. BISHOP: Objected to as being a misstatement of the Witness' testimony.

Question withdrawn.

Q. How many times did you call on Yap Puan Niu after Sy Quian left Am Thau?

A. Very often, if not every day it was on alternate days.

Q. How long is it from now that Sy Quian was married?

A. 84 years ago. I mean from the time he was a boy up to now it is 84 years.

Q. How old was Sy Quian when you knew him as a boy?

A. I did not know Sy Quian as a boy, the first time I knew him was when he came home to be married.

Q. How many years was Sy Quian married to Yap Puan Niu? Give us a direct answer please.

A. About 60 years or more.

Q. How old was Sy Bi (Mi) Bo when Yap Puan Niu died?

A. He was more than 40 years old.

Q. And Sy Bi (Mi) Git? How old was he?

A. He was a year younger than his brother.

Q. What was the name of Sy Bi (Mi) Bo's Mediator?

A. It was a woman who acted as his Mediator, her name

418 I did not ask, and therefore do not know.

Q. What was the name of Sy Bi (Mi) Git's Mediator?

A. It was also a woman, and hence I do not know her name.

Q. As a matter of fact, is it not true that according to the Chinese



custom scarcely any one of the male sex is allowed to speak to the wife of any man?

A. Yes. And that is the reason why I did not ask the name of the Mediators.

Q. How many years ago was the new house in Am Thau, to which you referred to in your testimony, built?

A. About a little over 40 years ago.

Q. Have you ever seen Sy Yoc Chai?

A. Yes. I did when he was a boy before he went abroad, he is now abroad.

Q. How old was Sy Yoc Chai when you first knew him?

A. He was a very small boy.

Q. About 5 or 6 years?

A. I first met him when he was a baby in arms.

Q. Where was he then?

A. In Am Thau.

Q. What house?

A. In the old house of theirs.

Q. You say that Sy Quian 3 or 4 years after his marriage went abroad, how many times did he return after that?

A. After he left Home after his marriage he came back once as a supercargo of a certain steamer, remained some ten days and  
419 left again, about 10 years or more after this he returned again on account of his father's death. He attended to the mourning ceremonies and stayed until the grave of his father was completed. He stayed about a year or more this time.

Q. How long a time did elapse from the time Sy Quian left China after his marriage up to the time he returned as a supercargo?

A. Only a few months, and he stayed a very short time this time.

Q. You just said that after ten years Sy Quian returned to China for the 2nd time and stayed here for about a year, did he ever return after that?

A. No.

Q. You said you attended Sy Bi (Mi) Bo and Sy Bi (Mi) Git's marriages, were you invited to attend?

A. Yes.

Q. Had Sy Quian's father and mother died already at the time of Sy Bi (Mi) Bo's and Sy Bi (Mi) Git's marriage?

A. They were still living.

Q. Was it Sy Quian the one who as Family Head directed the negotiations for Sy Bi (Mi) Bo's and Sy Bi (Mi) Git's Marriages?

A. Sy Quian's wife did it.

Q. And why did not Sy Quian direct the negotiations? If he was still living? Or is it that he had already died?

A. No he was not dead. But was absent from Home.

Q. And who died first Sy Quian's father or Sy Quian's mother?

420 A. His mother died first.

Q. Is it not true as a matter of fact that Sy Quian came to China to attend to the wedding of Sy Bi (Mi) Bo and Sy Bi (Mi) Git, and that you saw him then, please remember it.

A. They were married at the expense of Sy Quian, that is to say with the money Ay Quian sent home.

Q. If you were present at Sy Bi (Mi) Git's marriage you must certainly remember that Sy Quian was there.

A. I don't remember it. It is a long time ago I don't remember it very well.

Q. Do you mean now to say that as a matter of fact you were not really present at the ceremony of the wedding of Sy Bi (Mi) Bo and Sy Bi (Mi) Git.

Mr. BISHOP: Objected to as being unfair to the witness and assuming something that is not in the Record.

Witness answers. Yes, I was present.

Q. How is it that having been there you cannot remember the presence of a man regarding whom you have been testifying here even as to his age, and whom you said you used to see him every day, and played such an important part in that ceremony.

A. Sy Quian at that time was still abroad.

Q. Why do you remember now that he was abroad?

A. I had to think, I was all confused then.

Q. Do you know where the marriage letters of Sy Quian, Sy Bi (Mi) Bo and Sy Bi (Mi) Git are?

421 A. I don't know where they are. Surely it is not my business to keep them.

Q. Did you ever see them?

A. I don't read, I never saw them. I would not know what they are even if I saw them.

Q. You said that during the 3 or 4 years that Sy Quian stayed at Am Thau after his marriage you went to his house almost daily why did you go there so much?

A. I had nothing to do so I went to have a chat with him or his father, to kill time.

Q. Did you go there morning and night?

A. I went there in the day time. No business to be there at night.

Q. How long after Sy Bi (Mi) Bo's wedding did Sy Quian return to China again?

A. Sy Quian never came home again after the 2nd time he came home more than ten years after his marriage.

Q. Did not Sy Quian also come to attend to the funeral and mourning of his mother?

A. He came home once to make the grave of his father and mother.

Q. How long a time did elapse from the death of Sy Quian's father and the death of Sy Quian's mother?

A. Some years after the death of his father and mother that he came home.

Q. How many years afterwards?

A. About 5 or 6 years after their deaths.

Q. After the father's death do you mean?

A. Yes.

422 Q. You say that you are well acquainted with Am Thau and its inhabitants, and besides, you say that you are an

elder, will you kindly tell us what kind of an Oath is taken in Am Thau by a witness in a case whenever there is a dispute before the court or the institution holding the same attributes of that body, whenever an oath is required in a given case?

Mr. Bishop: If counsel for the Defendants will state that he believes that the question is proper cross-examination we will make no objection to it.

Mr. OPISSO: Our object is to find out whether this man is really familiar with the customs and practice of Am Thau.

Witness answers: No oath is taken and required of a witness in settling a dispute if the Elder fails to settle a dispute he will refer it to Ho San where some gentry will try to settle it. And if they fail again the matter is taken before the Hal Feng Ting.

Q. Are the Witnesses cautioned to tell the truth, the whole truth, and nothing but the truth? before giving their testimony?

Mr. Bishop: It is useless to make any objection that the question is not cross-examination as the Vice-Consul has no authority to rule upon the matter, but it is so apparent that even counsel for the Defendants ought to be ashamed to ask such a question.

Mr. OPISSO: We should like very much if counsel for the Plaintiffs would make his objections legal, and not personal as at  
423 least several times he has already done in this Record.

Witness answers: I am testifying from my personal knowledge.

Q. Please answer the question.

A. I am not telling any untruth.

Q. Please answer the question. I will change it. Are the witnesses in Am Thau before making any statement and before giving their testimony as witnesses in a case in Am Thau required to promise to tell the truth, the whole truth and nothing but the truth?

A. I am telling the truth and nothing but the truth.

Q. Do you know whether or not in the courts, the Chinese courts, at Amoy any oath is required of a witness in certain cases?

A. No oath is required of them.

Q. Are not they required or warned by the Magistrate or whoever is trying the case, or trying to settle the dispute, to tell the truth, the whole truth, and nothing but the truth?

A. The Magistrate simply asks the question and the Witness answers it, that is all.

Q. Do you fully realize and understand the nature of an Oath, such as you have given in this case with all the incidents to it?

A. I am telling the truth all the time.

Q. That is not an answer to our question. Please answer yes or No, or explain.

A. I don't understand you.

Mr. OPISSO: That is all.

424 Mr. BISHOP: That is all.

Mr. OPISSO and Mr. SUMULONG: We renew as regards this Witness the request and motion we made at the close of the testi-

mony of the Witness Sy Peng in the same manner as it appears on Page 144 of this Record.

Mr. BISHOP: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146 made in conformity with the requests of the Attorneys for the Defendants and the Attorney for the Plaintiffs, is equally applicable and has the same force with regard to the Witness Sy Kai Tit as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing, to read an interpretation of Sy Kai Tit's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter, and the Witness made no corrections but stated he did not understand the last questions.

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking of the Deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having stated that he found it to be correct in every particular, but that he did not understand the last questions, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury," he stated that he approved the same and that the same was correct, and he signed it by making his mark, after his name was written in Chinese characters by the Interpreter.

(Chinese characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, in China, certify that the preceding is the Deposition given before me on the 25th of September, 1906, by the Witness, Sy Kai Tit, who before giving his testimony, took the prescribed oath to tell the truth, and after having been informed of his right to correct it in any particular if he desired, and after having approved the same without making any correction, and stating that he did not understand the last questions, and having been cautioned that if his testimony is found to be untrue he is liable to the pains and penalties of perjury, signed his name by making his mark, after his name was written in Chinese characters by the Interpreter, on finding it to be correct.

426 I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is a faithful expression of the testimony of the Witness.

I also certify that the Witness, after subscribing the same by making his mark, as above stated, took oath that the deposition sub-

scribed by him contain the Truth, the whole Truth, and nothing but the Truth.

In witness whereof, I have hereunto subscribed my hand and affixed the seal of this Consulate, on this 25th day of September, 1906.

[CONSULAR SEAL.]

(Sgd.)

REA HANNA,

*Vice-Consul.*

Afternoon session adjourned at 5 p. m., September 25, 1906, to 8:30 a. m., September 26, 1906.

Morning Session, 8:30 a. m., September 26th, 1906.

All parties appearing as heretofore.

Plaintiffs call as their seventh witness Yap Chong.

Yap Chong, sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case shall be the Truth, the whole Truth, and nothing but the Truth. So help you God."

Defendants move that in addition to the Oath about to be administered to the Witness for the Plaintiffs, according to the Rule of this Consulate, that this Witness be also sworn in the Chinese way, on the head of a white Rooster, cut by the Witness himself at the time of giving his testimony and taking his Oath.

Mr. Bishop: Objected to for the reason that no such Oath or formality is known to the laws of the United States, the Philippine Islands, or China.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the Witness than the one by which he now swears him.

The Defendants except to the Ruling of the Vice-Consul.

YAP CHONG, sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Direct examination by Mr. Bishop:

Question. What is your name?

A. Yap Chong.

Q. Where do you live?

A. In Lao Poan.

Q. What is your occupation?

A. I am an Elder of the village. I have been a farmer heretofore.

Q. How old are you?

A. 71 years old.

Q. Were you acquainted with Yap Puan Niu?

A. Yes. I am acquainted with Yap Puan Niu. She was of my village.

Q. When did you first know her?

A. She was my neighbor and I knew her since a child, she was older than myself.

Q. Where is -he now?

A. She is now dead, she died in Am Thau.

Q. How long ago?

The Defendants object on the ground that it is not the best evidence.

Witness answers. She has been dead about 15 or 16 years.

Q. State if you know whether she was married or single at the time of her death.

The Defendants object on the ground that the question is incompetent and not the best evidence.

Mr. BISHOP: In as much as the Vice-Consul has notified all parties that the Consul will leave on the 1st of October, and that he has but one Chinese Clerk that it will be impossible for him to continue the taking of this Deposition after next Saturday, and in view of the fact that one half of the time taken for direct Examination is taken up with objections by Attorneys for Defendants and in view of the fact that our Code Expressly provides that the only objection that is necessary to be recorded is as to the form of the question, we believe that it is improper for Attorneys for Defendants to encumber the

Record with other objections. Hence we again enter our 429 protest against such proceedings.

Mr. OPISSO: No comment is necessary to the statement of the Attorney for the Plaintiffs.

Attorneys for the Defendants do not remember any such provision of the law as quoted by Attorney for the Plaintiff-. If Attorney for the Plaintiffs is uneasy at our objections we should like him very much to say so frankly. He certainly does not mean to say that he be allowed to ask all kinds of questions whether they be competent or incompetent, relevant or irrelevant, material, or immaterial, without us making any objections to those questions and thereby injuring the Rights of our Clients.

Mr. BISHOP: I refer to Section 362 of Act 190 Philippine Commission which is lying on the table.

Witness answers. Yes she was married in Am Thau, husband's name Sy Quian.

Q. When were they married?

Same objection by Defendants.

Witness answers. When she was about 21 years old.

Q. About how old was Sy Quian at the time of the marriage?

Same objection by the Defendants.

Witness answers. I heard he was 25 years old.

The Defendants move that the Testimony of the Witness regarding Sy Quian's age be stricken out from the Record for being Hearsay.

Q. State if you know whether Sy Quian and Yap Puan Niu had many children.



430 Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. Yes.

Q. How many?

Same objection by the Defendants.

Witness answers. They had two.

Q. Boys or girls.

A. Boys.

Q. What were their names?

A. The Elder one was named Bi (Mi) Bo.

Q. And the Younger one?

A. Bi (Mi) Git.

Q. When was Sy Bi (Mi) Bo born in reference to the marriage of Sy Quian and Yap Puan Niu?

The Defendants object on the ground that the question is incompetent.

Witness answers. The next year after their marriage.

Q. When was Sy Bi (Mi) Git born?

Same objection by the Defendants.

Witness answers. The next year after the other one.

Q. At the time of the marriage of Yap Puan Niu to Sy Quian state if you know whether she was married or single?

Defendants object on the ground that it is not the best evidence.

Witness answers. No, she was not married.

Q. State if you know whether Sy Quian was married or single at the time he married Yap Puan Niu.

Same objection by the Defendants.

431 Witness answers. No. He was not married.

Q. Where did Sy Quian and Yap Puan Niu live after their marriage?

A. Yap Puan Niu lived in Lao Poan prior to her marriage after her marriage she lived in Am Thau.

Q. Where is Sy Quian now?

A. He is dead.

Q. When did he die?

The Defendants object on the ground that it is not the best evidence.

Witness answers. He has been dead 13 or 14 years.

Q. Where did he die?

Same objection by Defendants.

Witness answers. He died in Manila.

Q. Where is Sy Bi (Mi) Bo?

A. He is also dead.

Q. When did he die?

A. He has been dead about 23 or 24 years.

Defendants move that the last two answers of the Witness be stricken out of the Record on the ground that they are not the best evidence.

Q. Where did he die?

A. In Am Thau.

Q. At the time of his death was he married or single?

The Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. He was married at the time of his death.

Q. Whom did he marry?

A. Same objection by Defendants.

432. Witness answers. He married a girl of the Ho family of Wa Chin.

Q. At the time of his marriage was he married or single?

Same objection by Defendants.

Witness answers. He was not married.

Q. What was the name of the girl he married?

A. Ho Gim Niu.

Q. Was she married or single at the time she married Sy Bi (Mi) Bo?

The Defendants object, the question is decidedly incompetent and not the best evidence.

Witness answers. No she was not married.

Q. Where is the wife of Sy Bi (Mi) Bo?

A. Sy Bi (Mi) Bo's wife is also dead now.

The Defendants move that the answer of the Witness be stricken out of the Record on the ground that it is not the best evidence of her death.

Q. When did she die?

Same objection by Defendants.

Witness answers. She has been dead 12 or 13 years.

Q. Did they have any children?

The Defendants object on the ground that the question is incompetent.

Witness answers. Yes, they had.

Q. How many?

A. One.

Q. Boy or girl?

A. One boy, one girl.

Q. What was the name of the boy?

433. A. Sy Hiu Niu.

Q. Where is he now?

A. Sy Hiu Niu has been married in Au Chio Po.

Q. Then Sy Hui Niu was a daughter?

Defendants object on the ground that the question is leading.

Question withdrawn.

Q. What is the name of the boy?

The Defendants object on the ground that the question has already been asked the Witness and answered by him.

Witness answers. I don't know.

Q. Where is he?

Defendants object on the same ground. The question is incompetent.

Witness answers. He is in Luzon.

Q. Where is the girl?

A. She is in Au Chio Po.

Q. Is she living or dead?

The Defendants object on the ground that the question is incompetent, irrelevant, immaterial and not the best evidence.

Witness answers. Hui Niu is dead.

Q. How long has she been dead?

Same objection by Defendants.

Witness answers. She has been dead 3 months.

Q. At the time of her death did she have any children?

Same objection by Defendants.

434 Witness answers. Yes.

Q. How many?

Same objection by Defendants.

Witness answers. Only one.

Q. Boy or girl?

A. Boy.

Q. About how old is he?

Same objection by Defendants.

Witness answers. 6 or 7 years old.

Q. Where is Sy Bi (Mi) Git?

A. Bi (Mi) Git is also dead.

The Defendants move that the answer of the Witness be stricken out from the Record because it is not the best evidence.

Q. When did he die?

Same objection by defendants.

Witness answers. He has been dead more than 20 years.

Q. Where did he die?

A. In Am Thau.

Q. At the time of his death was he married or single?

The Defendants object on the ground that the question is incompetent and not calling for the best evidence.

Witness answers. He was married.

Q. Whom did he marry.

Same objection by Defendants.

Witness answers. He married a girl from Sin Lo.

Q. What was her name?

A. Yap Sung Niu.

Q. Where is she now?

435 A. Yap Sung Niu is also dead.

The Defendants move that the answer of the Witness be stricken out of the Record, not being the best evidence.

Q. When did she die?

The same objection by Defendants.

Witness answers. She has been dead 23 or 24 years.

Q. Did Sy Bi (Mi) Git and his wife have any children, if so how many?

Same objection by Defendants.

Witness answers. One boy and one girl.

Q. When was the boy born in reference to the marriage of Si Bi (Mi) Git and his wife?

Same objection by the Defendants.

Witness answers. Two or three years after the marriage of Sy Bi (Mi) Git.

Q. When was the girl born?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. 5 or 6 years after that of the boy.

Q. What is the name of the boy?

A. Yoe Ling.

Q. Where is he now?

A. He is there sitting. (Witness indicating by a motion of his head the Plaintiff sitting by the side of Mr. Bishop.)

Q. What is the name of the daughter of Sy Bi (Mi) Git and his wife?

A. Sy Chiao Niu.

436 Q. Where is she now?

A. She has been married in Che Chinn.

Q. State if you know what relation this Plaintiff, Sy Yoe Ling, is to the Sy Quian and his wife Yap Puan Niu, whom you have mentioned in your testimony?

The Defendants object on the ground that the question is incompetent.

Witness answers. Sy Quian and Yap Puan Niu are the grandfather of Sy Yoe Ling. Their grandson.

Q. And Yap Puan Niu?

Same objection.

Witness answers. Yap Puan Niu is grandmother of Sy Yoe Ling.

Q. Where did Sy Quian and his wife live after they were married.

The Defendants object on the ground that the question is exact repetition of a former one to the witness.

Question withdrawn.

Q. How long did Sy Quian live in Am Thau after his marriage?

The Defendants object on the ground that the question is leading.

Witness answers. He lived in Am Thau 3 or 4 years after his marriage.

Q. Are you acquainted with the people of the village of Am Thau?

A. I am acquainted with some of them. Am Thau is more than 10 Li from my village, I knew Sy Quian.

Q. How long have you been acquainted in the village of  
437 Am Thau?

A. I know very few of the people of Am Thau. Sy Quian, Bi (Mi) Bo and others who have been to my village, I knew.

Mr. Bishop: That is all.

Cross-examination of YAP CHONG by Messrs. OPISSO and SUMULONG:

Question. Have you ever been sworn before today?

A. I have never been sworn. I have lived a peaceful life and have not had disputes with any one.

Q. Before coming here this morning did you know you were going to be sworn?

A. I am telling the truth. And there is nothing untrue in what I have said.

Q. Did any person tell you that before giving your testimony here this morning you were going to be sworn?

A. No.

Q. What responsibilities did you undertake this morning when you were sworn?

A. I undertook to bind myself to say the truth and nothing untrue before the Heaven.

Q. Do you know the liabilities and penalties attached to the Oath you have taken this morning?

A. Yes. If I do not tell the truth I expect to take the consequences.

Q. But what penalties and what punishments are incident to the Oath you have taken this morning?

438 A. Surely there could be no punishment when I am telling the truth.

Q. But do you know the pains and penalties that you or any person would be liable to suffer and would suffer should you or that person not tell the truth?

A. When a man is not telling the truth he has to suffer penalties but not when he is telling the truth.

Q. What kind of penalties would those be?

A. The most severe punishment would be that by the Supreme Being of Heaven.

Q. But here on earth before dying, what penalty is there?

A. That punishment by the Supreme Being of Heaven may either be death or pains in other forms in life.

Q. We do not ask you of the punishments from the Divine Justice but from Human Justice here on earth.

A. I have told all truth therefore I am not afraid of any punishment at the hands of Officials or Courts.

Q. If a person should not tell the Truth what punishment from the Human justice would he receive here on earth.

A. If a man is not telling the truth he is to be punished by his Officials. But I have told the truth.

Q. Would you make your answer a little more definite and tell us the especial kind of punishment that that person will receive in China. What would that punishment consist of?

A. That punishment will be inflicted by the officials and it would be corporal punishment and pains.

439 Q. Such as beating with a bamboo, or putting hands and feet on the stocks, or putting the head through a board with an inscription of the crime?

A. Yes. That is what I mean.

Q. Therefore you mean to say that there is in China a punishment for those who violate the Oath they may have taken?

A. Yes.

Q. What kind of an Oath is that which a party takes in your village, or in your Province?

A. No Oath is taken when a man is about to give his testimony before a Chinese Court, the only Oath that is taken by Chinese is when two Chinese have a dispute and cannot settle the same, for instance: If a man accuses another of theft, the man so accused tells him "I will swear before some Chinese god to show that I am innocent."

Q. And what does that Oath consist of?

A. It is to deny the charge.

Q. Is it not true that at the time of swearing before the Chinese gods the man so swearing usually takes with him a Rooster, or a jar, and at the time of swearing he cuts the Rooster's head or breaks the jar by throwing it on the ground?

A. I have never seen a man doing it, but it is a common saying among the Chinese "if you will swear I will cut the head of a white Rooster for you."

Q. What difference, if any, do you find between giving a statement of testimony without filling any formalities regarding  
440 Oath, and giving your testimony as you have done here this morning after having taken an oath?

A. The difference is, after taking the Oath as I did this morning the testimony I give is really given before the Supreme Being of Heaven who knows whether it is the Truth or untruth and who can punish me if I tell any thing untrue.



Q. If when you came here this morning you did not know that you were going to be sworn and that nobody instructed you as to that, and therefore did not know the nature of the Oath you were to take, how have you arrived at the difference between your testimony as given here this morning and the one you could have given somewhere else without taking any oath.

Mr. Bishop: The question is an insult to the Witness, who has certainly shown as high and appreciation of an Oath as counsel can have of his Oath.

Witness answers. I arrived at the conclusion myself nobody has instructed me on that.

Morning session adjourned at 11 A. M. September 26th, 1906, to 2. P. M.

Afternoon Session, 2 p. m., September 26, 1906.

Continuation of cross-examination of YAP CHONG.

By Messrs. SUMULONG and OPIRRO.

441 All parties appearing as heretofore.

Question. By what means did you arrive at that conclusion?

A. By thinking of the wording of the oath which says I must tell the truth.

Q. You said this morning that you knew very few people from Am Thau village in fact that you knew only those from Am Thau that had been in your village do you mean to say then that you have never been in Am Thau and that you knew those people because they had been in your village?

A. I had been in the Am Thau village I went there to sell vegetables when I was young but I did not know any one then, once the Hai Feng Ting wanted to raise a wheat tax some Elders of that village went and I met them there.

Q. Did you know a person called Puan Kien?

A. I don't know this person.

Q. Did you know Yap Puan Niu before she married Sy Quian if so how long before?

A. I knew her yes. Since we were children and I had been to her house.

Q. Did you know a person by the name of Yoc Boon?

A. I do not know this man, this name might be the school name of some one.

Q. Are you married, single, or a widower?

A. I am married, my wife is still living.

Q. How old were you when Yap Puan Niu died?

A. I was about 60 years old.

442 Q. And how old was Sy Bi (Mi) Bo when Yap Puan Niu died?

A. More than 20 years old.

Q. How old was Sy Bi (Mi) Git?

A. About the same age.

Q. One year younger of course than Sy Bi (Mi) Bo.

A. Yes. One year's difference. Sy Bi (Mi) Bo one year older and Bi (Mi) Git one year younger.

Q. Did you attend to the marriage of Sy Bi (Mi) Bo?

A. I received invitations, but was too busy to go, so I sent my son.

Q. Did you attend Sy Bi (Mi) Git's wedding?

A. No. I did not. My son went on my behalf.

Q. How many children did Sy Bi (Mi) Bo have?

A. Two.

Q. Did you ever see them?

A. I did see Bi (Mi) Bo but not his children.

Q. Was Sy Bi (Mi) Bo a widower when he died?

A. His wife was still living.

Q. How long after his death did his wife die?

A. 13 or 14 years after the death of Bi (Mi) Bo did his wife die.

Q. How long ago from now?

A. About 12 or 13 years.

Q. Was Sy Bi (Mi) Git living or dead at the time Sy Bi (Mi) Bo died?

A. He had been dead.

Q. How many years after his death did his wife die? Or  
443 is it that he died a widower?

A. Bi (Mi) Git and his wife died within a few years of one another.

Q. Who died first he or his wife?

A. I don't quite remember but I know they died within one or two years of each other.

Q. Did you attend the funeral of either Sy Bi (Mi) Bo or his wife, or Sy Bi (Mi) Git, or his wife?

A. No I did not, my son did. I sent them Joss papers.

Q. When did you first see Sy Yoe Ling?

A. The time he came with his grandmother. He was quite a young boy then.

Q. Did you know Yap Sung Niu?

A. Yes.

Q. When did you first see her?

A. After she was married?

Q. Whom did she marry?

A. She married Sy Yoe Chai.

Q. How old were you at the time she married?

A. I was between 40 and 50 years.

Q. How old were you when Sy Bi (Mi) Bo was married?

A. I was about the same age.

Q. Did you ever know Sy Hui Niu's husband?

A. I never saw him. She was married in Au Chio Po. I never saw her husband.

Q. Have you ever seen the child? If so where?

A. Whose child?

Q. Sy Hui Niu's.

444 A. No, he is in Au Chio Po.

Q. You said you are married, did we understand right?

A. Yes.

Q. Did you have preliminary or contemporaneous to your wedding the matrimonial letters exchanged between your family and your wife's old family?

A. Yes. We had, they are all eaten up by worms now.

Q. Do you still preserve them, we mean what is left of them?

A. No. As a rule we don't preserve such letters after we have children or grandchildren.

Q. How old were you when you married Mrs. Yap Chong?

A. When I was 30 years old.

Q. How long ago from now is that?

A. More than 40 years.

Q. About 45?

A. Only half a year or a year more than 40.

Q. What year were you born?

A. I was born in the years of Tao Kuang, about his 14th or 15th year.

Q. What Cycle year was that?

A. I don't know, I don't read.

Q. Do you know a person by the name of Yap Si Tan?

A. Yes. It was a woman of my Clan married into the Tan clan.

Q. Do you know a man by the name of Sy Kai Tit?

445 A. No, I don't.

Q. Do you know a person Yap Chia by name?

A. Yes.

Q. Where is he?

A. He is in Lao Poan?

Q. What does he do there?

A. He is one of the Elders of the village?

Q. Is he married or single?

A. Yes, he is married.

Q. Do you know Lim Chio?

A. Yes, I do.

Q. Where is she?

A. She was married from Lao Poan. I understand she had a house built for her at Te Tao, where she is living now.

Q. Do you have with you any documents or writing in which your age appears at any given time?

A. No. Do you mean the eight characters?

Q. No, we don't mean exactly the "Eight characters" but any document in which at any time your age may have been recorded? However, if that can be seen from the eight characters we also mean the Eight characters.

A. I don't read and I have no documents of the kind.

Mr. O'risso: That is all.

Redirect examination by Mr. BISHOP:

Question. Who died first Sy Bi (Mi) Bo or his mother?

446 The Defendants object because that question is not properly Redirect examination, the more so since the witness has already answered the question in his direct examination.

Witness answers: BÉ (MÍ) Bó died first.

Q. Who died first Sy BÉ (MÍ) Gí or his mother?

The same objection.

A. BÉ (MÍ) Gí died first.

Q. What dialect of the Chinese language do you speak?

A. I am telling you what I know.

Q. Do you speak the Amoy dialect?

A. Yes.

Q. Do — speak any other language?

A. No.

Q. Where is Te Tao village in reference to the Lao Póan village?

A. Te Tao is in the Lao Póan village.

Mr. Bishop: That is all.

Mr. Opiaso: That is all.

Mr. Opiaso and Mr. SUMILANO: We renew as regards this Witness the request and motion we made at the close of the testimony of the Witness Sy Peng in the same manner as it appears on Page 144 of this Record.

Mr. Bishop: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146 made in conformity with the requests of the Attorneys for the Defendants and the Attorney for the Plaintiffs is equally applicable and has the same force with regard to the Witness Yá Chong 447 as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing, to read an interpretation of Yá Chong's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter and the Witness made no corrections.

After the foregoing declaration had been read and interpreted to the witness by Mei Li Ung Bing, Interpreter, for the taking of the deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having stated that he found it to be correct in every particular, and after having been cautioned by the Vice-Consul as follows:

"I caution that if this your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury."

He stated that he approved the same and that the same was correct, and he signed it by making his mark, after his name was written in Chinese characters by the Interpreter.

(Chinese characters.)

Witness.

(Sgd.) REA HANNA.

448 I, Rea Hanna, Vice-Consul of the United States of America, at Amoy, in China, certify that the preceding is the deposition given before me on the 26th of September, 1906, by the Witness, Yap Chong, who before giving his testimony took the prescribed oath to tell the Truth, and after having been informed of his right to correct it in any particular if he desired and after having approved the same without making any correction, and having been cautioned that if his testimony is found to be untrue, he is liable to the pains and penalties of perjury, signed his name by making his mark, after his name was written in Chinese characters by the Interpreter, on finding it to be correct.

I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is the faithful expression of the testimony of the witness.

I also certify that the Witness, after subscribing the same by making his mark, as above stated, took oath that the deposition subscribed by him contains the Truth, the Whole Truth, and nothing but the Truth.

In witness whereof, I have hereunto subscribed my hand and affixed the seal of this Consulate, on this 26th day of September, 1906.

(Sgd.)

REA HANNA,

*Vice-Consul.*

[CONSULAR SEAL.]

449 Plaintiffs call as their eight witness Sy Boan.

Sy Boan sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this Case, shall be the Truth, the whole Truth, and nothing but the Truth." So help you God."

Defendants move that in addition to the Oath about to be administered to the Witness for the plaintiffs, according to the Rule of this Consulate, that this Witness be also sworn in the Chinese way, on the head of a white Tooster, but by the Witness himself at the time of giving his testimony and taking his oath.

Mr. Bishop: Objected to for the reason that no such Oath or formality is known to the Laws of the United States, Philippine Islands, or China.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the Witness than the one by which he now swears him.

The Defendants except to the ruling of the Vice-Consul.

Sy BOAN sworn through the Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Direct examination by Mr. Bishop:

Question. What is your name?

A. Sy Boan.

Q. Where do you live?

A. Na Au Am Thau.

Q. What is your occupation?





Witness answers. First the betrothal, usual presents, fruits cakes, sugar candies and so forth; then the day of the marriage was notified, on which day the red chair was sent to receive the Bride to come and be married.

Q After the Bride was brought in the red chair, what was then done?

A The Bride got out of the chair, she and the Groom worshipped the Heavens, the Earth, family gods, Tablets of Ancestors and the couple were thus married.

Q How long did Sy Quian live in Am Than after he was married?

A He lived in Am Than ever since he was born there, up to the time when he was a boy still in his teens when he left for abroad, he returned home when he was more than 20 years old to get married.

Q How long did he remain in Am Than after he was married?

A After his marriage he stayed 3 or 4 years before he went abroad again.

Q When did you next see him?

A After his marriage he left for abroad and came back twice afterward.

Q When did he come back the 2nd time, that is the first time after his marriage, I mean.

A 3 or 4 months after he went abroad he returned the first time that is after his marriage.

Q When did he return the 2nd time after his marriage?

A It was more than ten years that he returned the 2nd time after his marriage.

Q Was Sy Quian married or single at the time he married Yap Puan Nin?

The Defendants object on the ground that the question is incompetent and does not call for the best evidence.

Witness answers. He was not married.

Q At the time Yap Puan Nin married Sy Quian was she married or single?

Same objection by Defendant.

Witness answers. She was not married.

Q Before a person is married do you know whether or not any investigation is made as to their marital status?

The Defendants object on the ground that the question is irrelevant.

Witness answers. Yes. In order to marry a wife investigation is always made as to the marital status of the parties to be united in marriage, this Chinese custom.

Q Do you know who arranged this marriage?

A The Mediator.

Q During the 3 or 4 years that Sy Quian remained in Am Than after his marriage do you know in what house he lived?

A In his old house in which he married?

Q Who, if any one, else lived in the same house?

A. There were others besides him and his wife.

454 Q. Who?

A. Sy Quian and Yap Puan Niu.

Q. Who else lived in the house besides them if any one?

A. The Defendants object on the ground that the question is leading and has already been asked to, and answered by, the Witness.

Witness answers. Sy Quian's parents, brothers, uncles and their wives.

Q. Did Sy Quian and his wife have any children, if so, how many?

The Defendants object on the ground that the question is incompetent, and not the best evidence.

Witness answers. Yes. Two.

Q. Boys or girls.

A. Boys.

Q. What were their names?

A. One Bi (Mi) Bo and the other, the younger Bi (Mi) Git by name.

Q. When — Sy Bi (Mi) Bo born in reference to the marriage.

The Defendants object on the ground that the question is incompetent.

Witness answers. One year or more after the marriage.

Q. When was Sy Bi (Mi) Git born in reference to the marriage?

Same objection by the Defendants.

Witness answers. He was born in the year following.

455 Q. During the 3 or 4 years that Sy Quian lived in Am Thau after his marriage, were you ever in his house?

A. Yes.

Q. About how often?

A. Occasionally.

Q. Where is Sy Quian's wife, Yap Puan Niu now?

A. She is dead.

The Defendants move that the answer of the Witness be stricken out of the Record on the ground that it is not the best evidence.

Q. When did she die?

Same objection by Defendants.

Witness answers. She has been dead more than 10 years, 13 or 14 years. No she has been dead 15 or 16 years.

Q. Where did she die?

A. In Am Thau.

Q. Where is Sy Bi (Mi) Bo?

A. Bi (Mi) Bo and Bi (Mi) Git are both dead.

Q. When did Sy Bi (Mi) Bo die?

A. He has been dead more than 20 years.

Q. How long did you know Sy Bi (Mi) Bo during his life time?

A. I knew him during his life time since he was born.

Q. At the time of his death was he married or single?

The Defendants object on the ground that the question is  
456 incompetent and does not call for the best evidence.

Witness answers. He was married.

Q. When was he married?

Same objection.

Witness answers. When he was more than 20 years old.

Q. Where?

Same objection by Defendants.

Witness answers. Am Thau.

Q. How do you know?

A. I was present at his wedding and the fe-st.

Q. Whom did he marry?

A. Ho Gim Niu, of Wa Chu.

Q. Where is -he now?

A. She is dead.

The Defendants move that the answer of the witness be stricken  
out of the Record as it is not the best evidence.

Q. When did she die?

A. She has been dead more than ten years.

Q. Did Sy Bi (Mi) Bo and his wife have any children, if so,  
how many?

The Defendants object on the ground that the question is in-  
competent.

Witness answers. Yes, they had, two.

Q. Boys or girls?

A. One boy and one girl.

Q. Where is the boy?

A. In Manila.

457 Q. What is his name?

A. Sy Yoc Chai.

Q. Was he a natural son?

The Defendants object on the ground that the question is leading.  
Question withdrawn.

Q. Was he a natural son or an adopted son?

Same objection on the part of Defendants.

Witness answers. Adopted son. They had a natural son he died,  
and this was adopted in his place.

Q. How old was the natural son when he died?

A. Very very young.

Q. What was the name of the daughter of Sy Bi (Mi) Bo?

A. Hui Niu.

Q. Where is -he?

The Defendants object on the ground that the question is irrele-  
vant and immaterial.

Witness answers: Married in An Chio Po. She is dead now.

Q. When did she die?

Witness answers: Has been dead more than 2 months.

Q. When was she born in reference to the marriage of Sy Bi (Mi) Bo?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers: Seven or 8 years after the marriage of Sy Bi (Mi) Bo.

458 Q. At the time of her death did she leave any children if so how many?

Same objection by Defendants.

Witness answers: Yes. One.

Q. Boy or girl?

A. Boy.

Q. About how old was he?

A. About 7 or 8 years old.

Q. Where did he live?

A. An Chio Po.

Q. At the time Sy Bi (Mi) Bo married Gim Niu was he married or single?

The Defendants object on the ground that the question is incompetent and does not call for the best evidence.

Witness answers: He was not married.

Q. At the time Gim Niu married Sy Bi (Mi) Bo was she married or single?

Same objection by Defendants.

Witness answers: She was not married.

Q. When did Sy Bi (Mi) Gi die?

A. Defendants object on the ground that the question does not call for the best evidence.

Witness answers: He has been dead more than 20 years.

Q. At the time of his death was he married or single?

Defendants object on the ground that the question does not call for the best evidence, and is incompetent.

459 Witness answers: He was not only married but had children.

Q. When was he married?

The Defendants object on the same grounds as to the former question.

Witness answers: When he was more than 20 years old.

Q. How do you know that he was married?

A. I was present at his wedding dinner.

Q. Whom did he marry?

The Defendants object on the ground that the question does not call for the best evidence.

Witness answers. Yap Sung Niu of Sin Lo village.

Q. At the time of his marriage was he married or single?

Same objection by Defendants.

Witness answers. He was not married.

Q. At the time of the marriage of Yap Sung Niu to Sy Bi (Mi) Git was she married or single?

Same objection by the Defendants.

Witness answers. She was not married.

Q. Where is she now?

A. She is dead.

The Defendants move that the answer be stricken out not being the best evidence.

Q. When did she die?

Same objection by Defendants.

Witness answers. She has been dead more than 20 years.

460 Afternoon session closed 5:30 P. M. until 8:30 A. M.  
September 27th, 1906.

Morning Session, 8:30 A. M., September 27th, 1906.

All parties appearing as heretofore.

Continuation of direct examination of Sy Boan by Mr.  
RISNOR.

Question. Where is Yap Sung Niu?

A. She is dead now.

The Defendants object that the answer of the Witness be stricken out of the Record on the ground that it is not the best evidence.

Q. When did she die?

Same objection by Defendants.

Witness answers. She has been dead more than 20 years.

Q. Did Sy Bi (Mi) Git and his wife Yap Sung Niu have any children?

A. Yes, they had.

Q. How many?

Same objection by Defendants.

Witness answers. Two.

Q. Boys or girls?

A. One boy, one girl.

Q. What is the name of the boy?

A. Yoc Ling.

Q. Where is he?

A. He is there. (Witness pointing to Plaintiff sitting next to Mr. Bishop.)

Q. What is the name of the girl?

A. Sy Hui Niu. No, Sy Chiao Niu.

Q. Where is she?

A. Married to Che Chiun village.

Q. Have you ever been in Manila?

A. No, I have never been.

Q. Can you read and write the Chinese language?

A. Yes.

Q. Write the name of Sy Quian in the Record in Chinese characters.

Witness writes as follows:

Witness says: Sy Quian's name as known in his family was "Sy Tiong Quian," do you want me to write the Chinese characters for "Sy Quian" or "Sy Tiong Quian"?

Mr. Bishop: Write the name first "Sy Quian" and then the name "Sy Tiong Quian."

Witness writes.

(Chinese characters.)

Q. Did Sy Quian have any brothers?

The Defendants object on the ground the question is irrelevant and immaterial.

Witness answers. He had.

Q. Where are those brothers now?

Same objection by Defendants.

462 Witness answers. Dead, with the exception of one who is now in Manila.

Q. What is his name?

Same objection by Defendants.

Witness answers. Sy Hien, or Sy Tiong Hien. He is known as Sy Hien, but his proper family name is Sy Tiong Hien.

Q. Write his name in both ways in Chinese characters in the Record.

Same objection by Defendants.

Witness answers. (Chinese characters.)

Q. Write the name of Sy Quian's wife, Yap Puan Niu.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Bi (Mi) Bo.

Witness writes. (Chinese characters.)

Q. Write the name of Ho Gim Niu, whom you have referred to as the wife of Sy Bi (Mi) Bo.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Bi (Mi) Git in the Record.

Witness writes. (Chinese characters.)



Q. Write the name in the Record of Sy Bi (Mi) Git's wife, Yap Sung Niu.

Witness writes. (Chinese characters.)

Q. Write in the Record the name of Sy Yoe Chai.

Witness writes. (Chinese characters.)

Q. Write in the Record the name of Sy Hui Niu.

The Defendants object because it is immaterial and irrelevant.

463 Witness writes. (Chinese characters.)

Q. Write the name of the Plaintiff, Sy Yoe Ling.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Chio Niu.

Witness writes. After objection by Defendants on the ground that it is irrelevant and immaterial.

(Chinese characters.)

Q. State if you know what relation the Sy Yoe Ling, whose name you have written in Chinese characters at the top of page 339 is to the Sy Quian or Sy Tiong Quian, whose name you have written about the middle of page 336.

The Defendants object on the ground that the question is incompetent and does not call for the best evidence.

Witness answers. Sy Tiong Quian is the grandfather of Sy Yoe Ling.

Q. Do the two names which you have written in Chinese characters at about the middle of page 336 represent the same person or different persons?

The Defendants object on the ground that the question is leading.

Witness answers. These two names (witness pointing to the names in Chinese characters about the middle of page 336) refer to the same person.

Mr. BISHOP: That is all.

Cross-examination of Sy Boan by Messrs. OPISSO and SUMU-  
LONG:

464 Question. You said that you knew Sy Quian since he was a boy, do you mean to say that you were intimate friends?

A. Yes.

Q. As an intimate friend of Sy Quian did he say Goodbye to you, or did you say Goodbye to him when he went abroad for the first time in his life?

A. No, not the first time, we were mere boys then.

Q. But you knew when he left that time, did you?

A. Yes, I knew it, but I was very very young at the time so when I knew it it was after he left.

Q. How old were you at that time, more or less?

A. About 6 or 7 years old. (Witness denoting his height by his hand about four feet above the ground.)

Q. When Sy Quian was a boy and a young man how was he familiarly known by his friends and relatives?

A. He was known familiarly among his friends and relatives as Sy Quian, his parents, however, called him Fong Quian.

Q. As a matter of fact then when did you for the first time know Sy Quian?

A. At the time he went abroad the first time in his life I was a boy of 5 or 6 years I did not know much and therefore I did not go to say goodbye to him.

Q. So the first time that you knew Sy Quian was when you were 6 years old?

A. Yes.

Q. How old was Sy Quian? When you were 6 years old?

A. He was over ten years old.

Q. And how old were you at the time Sy Quian went  
145 abroad for the 2nd time?

A. I was about 20 more or less.

Q. It wouldn't be over a year more would it?

A. He was 8 or 9 years older than myself.

Q. How old was Yap Puan Niu at the time Sy Bi (Mi) Bo was born?

A. She was more than 20 years old.

Q. How much more?

A. She was about 23 or 24 years.

Q. How old was Sy Bi (Mi) Bo when Yap Puan Niu died?

A. More than 20 years old.

Q. And how old was Sy Bi (Mi) Bo at the time Yap Puan Niu died?

A. More than 20 years old, less than 30.

A. No. At the time Yap Puan Niu died Bi (Mi) Bo had been dead.

Q. Who died first Sy Bi (Mi) Bo or Sy Bi (Mi) Ho?

A. Bi (Mi) Ho died first.

Q. Have you ever left the village of Na An?

A. Yes I have left it on business matters.

Q. How old were you when you left the village of Na An? And how long did you stay away?

A. I have been in Na An all the time, never been abroad.

Q. How many years elapsed from the time Sy Bi (Mi) Bo died up to the time Yap Puan Niu died?

A. Bi (Mi) Bo had been dead more than ten years before Yap Puan Niu died.

146 Q. Are you sure that Yap Puan Niu died before Sy Quian?

A. Yes, sure.

Q. How many years elapsed from Yap Puan Niu's death to that of Sy Quian? Try to give us the reckoning as accurately as you can.

A. About 3 or 4 years elapsed between the death of Yap Puan Niu and that of Sy Quian.

Q. And from the death of Sy Bi (Mi) Bo up to the death of Sy Bi (Mi) Git how long a time elapsed?

A. Bi (Mi) Bo, No, Bi (Mi) Git I meant died first.

Q. But how long after Bi (Mi) Git's death did Bi (Mi) Bo die?

A. I don't remember quite accurately but it was about four or five years.

Q. Are you sure that Sy Quian only had two boys and no girls?

A. Only two boys, no girls.

Q. Was one of these two boys an adopted child?

A. No. Bi (Mi) Bo and Bi (Mi) Git were both his natural sons.

Q. When did you first know Yap Puan Niu?

A. The first time I knew Yap Puan Niu was when she married Sy Quian.

Q. You said that only four years more or less elapsed from Sy Bi (Mi) Git's to Sy Bi (Mi) Bo's death, are you sure that not more than ten years elapsed from one to the other?

A. I knew Bi (Mi) Git died first, he died several years  
467 ahead of Bi (Mi) Bo, I have kept no record of their deaths and therefore cannot give you the exact number of years.

Q. Certainly when you said several years you do not mean more than 5 or 6?

A. About five or six years.

Q. You said that you knew that Sy Quian left China for the first time after he had so, so could you tell us when and why did you know afterwards?

A. As boys we had been playing together, and being of the same village and being of the same clan, I used to go to his house and discovered afterward that he had left for abroad.

Q. Then you knew about all Sy Quian's friends and playmates when he was a boy.

A. Most of his playmates, the men who were with him when he was a boy are now dead.

Q. Are there any living? If so do you know any of them?

A. Very few. Sy Peng is one of them.

Q. Who was older, Sy Peng or Sy Quian?

A. They were about the same age. I don't know exactly.

Q. Who is the older, you or Sy Peng?

A. Sy Peng is the older.

Q. About how much older?

A. About seven or eight years.

Q. Who was older, Sy Hui Niu or Sy Chiao Niu?

Q. Sy Hui Niu.

468 Q. About how much older?

A. Four or five years.

Q. Who married first, Sy Bi (Mi) Bo or Sy Bi (Mi) Git?

A. Sy Bi (Mi) Bo.

Q. How long before?

A. About two years.

Q. How many times did Sy Quian return to China after his marriage?

A. Two times.

**Q.** Why did Sy Qian come here the second time?

**A.** He came home the second time to attend to the "Ting sui" matters of his parents.

**Q.** How long had Sy Qian's father and mother been dead when Sy Qian came this second time?

**A.** They died about five or six years before Sy Qian came home the second time.

**Q.** Who died first, the father or the mother?

**A.** His father.

**Q.** When Sy Qian came here the second time had Yey Puan Niu been already dead?

**A.** No. She was still living.

**Q.** How long did Sy Qian stay here that time?

**A.** About two or three years.

**Q.** Are you sure that the Chinese characters you have written here this morning on Pages 326-327-328 and 329 are the faithful and correct expressions of the names of the parties which you have referred to?

**A.** They are.

**Q.** Is it not a fact that the names of those persons may be represented by other characters than those you have written this morning in the aforesaid pages?

**A.** Sy Tiong Hien and Sy Tiong Qian those names I have written this morning were the names given them by their parents when they were boys. Tiong being the name to denote their relationship, generally and familiarly they were known as Sy Qian and Sy Hien respectively.

**Q.** But you have not answered the question, what we meant to say was whether or not those names can be represented also by other characters than those you have written this morning in the aforesaid pages.

**A.** But those names as I have written this morning are correct names in Chinese characters of the parties referred to. In Chinese man's name may be represented by different characters having the same pronunciation but the characters I have written are the correct ones for their names.

**Q.** If we should ask you now to write the names you have given us this morning with different characters than those you have written in the aforesaid pages of the Record, can you do it?

**A.** I can, but certain letters can be given in other characters having the same pronunciation while certain cannot.

**Q.** Will you then be so kind as to give us those names in writing by writing those sounds which can be represented with more than one character with a different character than that as it appears on the pages we have referred to. First we ask you to write the name of Sy Qian and Sy Tiong Qian with different characters than those appearing at the middle of page 326.

**Witness answers:** I would like to make a note to the effect that the names I have written in Chinese characters this morning have all been given in their correct characters, some characters such as "Nio" if need to denote a name of a certain person it needs explanation

whether it is the "Nin" which means a man, or the "Nin" which means "Kindness and virtue." There are two characters different in their construction but same in pronunciation. No such explanation is necessary of the names I have written this morning.

Question repeated to witness.

A. I know of one character which is pronounced Quian and no others.

Q. Please to write with different characters the words for the name Sy Quian and Sy Tiong Quian.

A. So long as Sy Quian's name is concerned I cannot write the name in two characters other than these ones I have given. I do not know whether there are no other characters which give the same pronunciation in the dictionary but there are none in my vocabulary.

Q. Can you write with different characters the name Sy Hien, or Sy Tiong Hien?

A. No. I can't. This letter Hien as given by me as the name of Sy Hien is rather pronounced in its meaning rather than the proper pronunciation of the character itself. The Character should be pronounced Hiong, it means Hien.

Q. Can you write the name Yap Puan Niu with different characters than those you have written at page 337, please yes, or no.

A. No.

Q. Can you write the name Sy Bi (Mi) Bo with different characters than those you have written on page 337? Please answer "yes" or "No."

A. Not all the three characters. "Bi" (Mi) will be the same character, "Bo" I can write a different character.

Q. Please do so.

Witness writes. (Chinese characters.)

Q. Can you write the name Ho Gim Niu with different characters than those you have written at the bottom of page 337? answer yes or no.

Mr. Bishop: Counsel cannot confine the witness's answers to yes and No, and we ask that any explanation he may wish to give that he is at liberty to do so.

Witness answers. Yes. With regard to the character "Ho" there is a different character pronounced exactly alike.

Q. Will you please write with that different character.

Witness writes. (Chinese characters.)

Q. Can you write the name Sy Yoc Ling with different characters from those you have written at the top of page 339?

A. Yes, Ling has a different character.

Q. Will you please write it then with that different character.

Witness writes. (Chinese characters.)

Q. Can you write the name Sy Bi (Mi) Gi with different characters than those you have written at the top of page 338?

A. No.

Q. Can you write the name Sy Yoc Chai with different characters than those you have written on page 338?

A. Yes, I can.

Q. Will you please do so.

Witness writes. (Chinese characters.)

Q. Can you tell us whether or not a person more thoroughly acquainted with the written Chinese language can write the name Sy Quian or Sy Tiong Quian and the name of Yap Puan Niu with different characters, but with the same sound than those you wrote this morning?

A. I don't think so.

Q. Do you mean by that answer that you are sure that no other person can do it?

A. I cannot do it myself, may be some other learned man can do it but to write a man's name correctly we must give it in such character as will be recognized by his wife his sons, grandsons, or other relations.

Mr. OPISSO: That is all.

Redirect examination by Mr. BISHOP:

473 Question. Which is the correct way of writing these different names in Chinese characters, as you wrote them first, or as you wrote them the second time when you were instructed to use other characters?

A. The names—

Mr. OPISSO: We object to this question because it assumes something that the witness has not said, to wit: that the two ways of writing the names to which the question refers to are not both correct.

Witness answers. The names I have written the first time.

Mr. BISHOP: That is all.

Recross-examination by Messrs. OPISSO and SUMULONG:

Question. Is it not true that although you have used different characters the second time those characters represent the same names and persons?

A. They would denote the same persons but pronunciation only, I mean where the characters are different.

Mr. OPISSO: That is all.

Mr. BISHOP: That is all.

Morning session adjourned 12 M. until 2 P. M., September 27th, 1906.

Afternoon Session, 2 p. m., September 27, 1906.

All parties appearing as heretofore.

474 Mr. OPISSO and Mr. SUMULONG: We renew as regards this Witness the request and motion we made at the close of the testimony of the Witness Sy Peng, in the same manner as it appears on Page 144 of this Record.



Mr. Bishop: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146 made in conformity with the requests of the attorneys for the Defendants and the Attorneys for the Plaintiffs, is equally applicable and has the same force with regard to the Witness Sy Boan as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing, to read the interpretation of Sy Boan's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter, and the Witness made no corrections.

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking of the deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having stated that he found it to be correct in every particular and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury."

475 he stated that he approved the same and that the same was correct, and he signed it.

(Chinese characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy in China, certify that the preceding is the deposition given before me on the 26th and 27th of September, 1906, by the Witness, Sy Boan, who before giving his testimony took the prescribed oath to tell the Truth and after having been informed of his right to correct it in any particular if he desired and after having approved the same without making any corrections, and having been cautioned that if his testimony is found to be untrue, he is liable to the pains and penalties of perjury, signed it on finding it to be correct.

I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that the same is the faithful expression of the testimony of the witness.

I also certify that the witness, after subscribing the same, as above stated, took oath that the deposition subscribed by him contains the Truth, the whole Truth and nothing by the Truth.

In witness whereof, I have hereunto subscribed my hand and affixed the seal of this Consulate on this 27th day of September, 1906.

476

(Sgd.)

REA HANNA.

*Vice-Consul.*

[Consular Seal.]

Plaintiffs called as their ninth Witness Sy Kong Leng.

SY KONG LENG sworn through Interpreter, Mr. La Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God."

Defendants move that in addition to the oath about to be administered to the Witness for the Plaintiffs, according to the rule of this Consulate, that this Witness be also sworn in the Chinese way, on the head of a White Rooster, cut by the Witness himself, at the time of giving his testimony and taking his oath.

Mr. Bishop: Objected to, for the reason that no such oath or formality is known to the laws of the United States, Philippine Islands, or China.

The Vice-Consul, Mr. Rex Hanna, states that he is not authorized to administer any other oath to the witness than the one by which he now swears him.

The Defendants except to the ruling of the Vice-Consul.

477 Sy Kong Leng sworn through the Interpreter, Mr. La Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Direct examination of Sy Kong Leng by Mr. Bishop:

Question. What is your name?

A. Sy Kong Leng.

Q. Where do you live?

A. Na Au.

Q. What is your occupation?

A. I am the Elder of the village?

Q. How old are you?

A. 58.

Q. Where is Na Au in reference to Am Than?

A. It is simply another name, it is part of Am Than.

Q. How long have you lived there?

A. I have lived there very long. When I was 19 years old I went abroad.

Q. Where were you born?

A. In Na Au.

Q. When you went abroad what place did you go to?

A. To Luzon.

Q. To what part of Luzon.

A. Manila.

Q. How long did you remain in Manila?

A. 2 or 3 years.

Q. And then where did you go?

A. Returned home.

478 Q. How long did you remain at home?

A. For 2 or 3 years then I went there again.

Q. How long did you remain in Manila that time?

A. Only 2 months or more, then I went to some province of the Philippine Islands.

Q. What Province?

A. Camarines.

Q. How long did you remain in Camarines?

A. More than 10 years.

Q. While you were living in the Camarines did you ever go to Manila?

A. Occasionally.

Q. When did you next return to China?

A. I remained in Camarines more than ten years, then I came home.

Q. Where have you been living since you returned home?

A. Na Au since my return.

Q. Are you acquainted with Sy Quian, formerly of the Am Thau village?

The Defendants object on the ground the question is leading.

Witness answers. Yes.

Q. When did you first become acquainted with Sy Quian?

A. When I was a boy in teens.

Q. And where did you first become acquainted with him?

A. In Am Thau.

479 Q. What was Sy Quian doing in Am Thau when you became acquainted with him?

A. I understand he came home at that time for the purpose of making the grave of his father and mother.

Q. Where is Sy Quian now?

A. He is dead.

The Defendants move that the answer of the Witness be stricken out of the Record on the ground that it is not the best evidence.

Q. When did he die?

The same objection by Defendants.

Witness answers. He has been dead more than ten years.

Q. Where did he die?

Same objection by Defendants.

Witness answers. He died in Manila.

Q. Do you know whether his body was brought back to China or not?

A. I don't know. I think not.

Q. At the time of his death was Sy Quian married or single?

The Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. He was not only married but had children at the time of his death.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did she live?

A. In Am Thau.

480 Q. Where is she now?

A. She is dead.

The Defendants move that the answer of the witness be stricken out from the Record on the ground that it is not the best evidence.

Q. When did she die?

Same objection by Defendants?

A. She has been dead more than ten years.

Q. Where did she die?

Same objection by Defendants.

Witness answers. In Am Thau.

Q. Did Sy Quian and his wife Yap Puan Niu have any children?

The Defendants object on the ground that the question is incompetent.

Witness answers. Yes.

Q. How many?

A. 2.

Q. Boys or girls?

A. Boys.

Q. What were their names?

A. The older one Bi (Mi) Bo, and the younger Bi (Mi) Git by name.

Q. State if you know when these two children were born?

The Defendants object on the ground that the question is decidedly incompetent.

Witness answers. I don't know.

Q. How old would they be if now living?

481 The Defendants object on the ground that the witness himself has shown himself to be incompetent to answer this question.

Witness answers. They would be more than 50 years old, about my age.

Q. Where are they now?

A. Dead.

The Defendants move that the answer of the witness be stricken out of the Record not being the best evidence.

Q. How do you know they are dead?

A. We had been friends, on my return I discovered they had died.

Q. Which was the older Sy Bi (Mi) Bo or Sy Bi (Mi) Git?

The Defendants object on the ground that the question is incompetent.

Witness answers. Bi (Mi) Bo was the elder.

Q. Were you acquainted with Sy Quian in any other place than Am Thau?

A. Sy Quia is the name of Sy Quian as it is given in Manila.

Q. How often did you meet him in Manila?

A. The Defendants object on the ground that the question is leading.

Witness answers. We lived in the same house in Manila.

Q. Did you meet Sy Quian while abroad, if so where?

A. Yes. In Manila, lived in the same house with him.

Q. Who else, if any one, lived in that house?

482 A. We lived on the second floor. I had a room in the front. Sy Quian and one Philippine woman lived in the back part of it, the first floor was occupied by Sy Tai's store.

Q. By what name or names was he known in Manila?

The Defendants object on the ground that the witness has already answered to that point.

Witness answers. Vicente Romero Sy Quia.

Q. How long did you live in the same building with Vicente Romero Sy Quia?

A. 2 or 3 years.

Q. While you were living in the same house with him in Manila did you have any conversation with him in reference to family matters?

The Defendants object on the ground that the question is leading and incompetent.

Question withdrawn.

Q. Where was this house in Manila?

A. Calle San Fernando.

Q. While living in that house with Vicente Romero Sy Quia did you ever have any conversations with him?

A. Yes. I have had conversations with him, being a clansman of his we certainly spoke to one another.

Q. How often would you meet him while you were living there?

A. Very often, living in the same house. Only at times when he was absent in some of the Provinces of the Philippine Islands I did not see him.

Q. What would you and him talk about?

The Defendants object on the ground that the question  
483 is incompetent, irrelevant and immaterial.

Witness answers. I used to greet him every day in the usual Chinese manner. Some times he expressed a wish to know about his wife in China and whether his boys in China were attending school.

Q. Upon your first trip to Manila, did you have any conversations with Vicente Romero Sy Quia, upon landing there?

The Defendants object on the ground that the question is leading, incompetent, irrelevant and immaterial.

Question withdrawn.

Q. When did you first talk with Vicente Romero Sy Quia, after you went abroad?

A. The first trip I went abroad.

Q. And where?

A. In Manila.

Q. How soon after you landed?

A. My elder brother was in the same house with him, I spoke to him when I went to see my brother.

Q. What did you and Vicente Romero Sy Quia, talk about upon your landing in Manila?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. He made enquiries about his Home in China, whether his wife had been well, and whether his boys had been to school and so forth.

I was the messenger of letters, clothes, Chinese tea and so forth which I was requested to deliver to Quia.

484 The Defendants move that the whole of the Witness' answer be stricken out from the Record on the grounds that it is incompetent and irrelevant.

Q. State what, if anything, occurred between you and Vicente Romero Sy Quia, upon your other trips to Manila.

The Defendants object on the ground that the question is irrelevant and leading.

Witness answers. On other trips to Manila from China I also brought him letters, messages and things.

Q. Would you have any conversation with him at such times?

A. I gave him information, that is, all I knew of his family.

Q. The Defendants move that the answer of the Witness be stricken out from the Record on the grounds of Incompetency and irrelevancy.

Q. And where would you meet him in Manila on these occasions?

A. Calle Jolo.

Q. After you went to the Camarines, how often would you meet Vicente Romero Sy Quia?

A. No, I have not seen him.

Q. While you were in the Camarines did you ever go to Manila?

The Defendants object on the grounds that the question is leading, irrelevant, immaterial, and furthermore because this is the second time that the identical question is put to the Witness.

485 Witness answers. One or two trips.

Q. State whether or not you met Vicente Romero Sy Quia on those occasions.

The Defendants object on the grounds that the question is leading.

Witness answers. Yes. I did on the one or two trips I made after I went down to the Camarines.



Q. Upon those occasions did you have any conversation with Vicente Romero Sy Quia?

Same objection by Defendants.

Witness answers. Yes.

Q. Where?

A. In Calle Jolo.

Q. In whose house?

A. In the street.

Q. State if you know what connection if any there was between the man you knew in Am Thau as Sy Quian and the Vicente Romero Sy Quia, whom you have referred to in Manila.

The Defendants object because the Witness has already testified as to that point.

Witness answers. Same person. In Manila people called him Sy Quia, but in China if you mentioned Sy Quia no one would know. His name here is Sy Quian.

Q. State if you know what relation, if any, the Yap Puan Niu, whom you referred to as living in Am Thau, was to the Vicente Romero Sy Quia, whom you have referred to in Manila.

The Defendants object on the ground that the question is incompetent.

486 Witness answers. Yap Puan Niu was his wife.

Q. State if you know what relation if any the Sy Bi (Mi) Bo and the Sy Bi (Mi) Git, whom you have referred to as living in Am Thau, were to the Vicente Romero Sy Quia, whom you referred to in Manila?

Same objection by Defendants.

Witness answers. They were his sons.

Q. Did the man who you say was known in Am Thau as Sy Quian and who was known in Manila as Vicente Romero Sy Quia have any brothers?

The Defendants object on the ground that the question is irrelevant and immaterial also incompetent and leading.

Witness answers. Yes.

Q. How many?

Same objection.

Witness answers. Three or four.

Q. Where are they now?

A. He had one who died before arriving at maturity therefore we counted his brothers three instead of four.

Q. Where are those brothers now?

Defendants object on the ground that the question is irrelevant and immaterial.

Witness answers. Two of the three are now dead.

Q. Where is the other one?

Same objection by Defendants.

Witness answers. In Manila.

Q. What is his name?

A. Sy Hien.

487 Q. About how old is he?

Defendants object on the ground the question is incompetent, irrelevant and immaterial.

Witness answers. About 60 more or less.

Q. At the time of Sy Bi (Mi) Bo's *married* was he married or single?

Same objection by Defendants.

Witness answers. He was married.

Q. Whom did he marry?

Defendants object on the ground that the question is not competent and not the best evidence.

Witness answers. Ho Gim Niu.

Q. When was Si Bi (Mi) Bo married?

Same objection by Defendants.

Witness answers. When he was more than 20 years old.

Q. How do you know?

A. I could not help but knowing it. Being a neighbor and Clansman of his. At the time of his marriage, great preparations were made, theatrical entertainments, feast and so forth, I was there myself.

Q. At the time of Sy Bi (Mi) Bo's *married* was he married or single?

The Defendants object on the ground that the question is incompetent.

Witness answers. He was not married.

Q. At the time of the marriage of Ho Gim Niu to Sy Bi (Mi) Bo was she married or single?

Same objection by the Defendants.

488 Witness answers. She was not married, if she had been she would not have the Right to sit in a red chair as she did on this occasion.

Q. Where is she now?

A. She is dead.

The Defendants move that the answer be stricken out of the Record, not being the best evidence.

Q. How long has she been dead?

Same objection by Defendants.

Witness answers. More than ten years.

Q. Did Sy Bi (Mi) Bo and his wife have any children, if so, how many?

Same objection by Defendants. Also on the ground that the question is not competent.

Witness answers. Yes, two.

Q. Boys or girls?

A. One boy and one girl.

Q. Did they have any other children?

Defendants object on the ground that the question is incompetent and leading.

Witness answers. Only these.

Q. Where is the boy?

A. The Boy Sy Yoc Chai is an adopted son.

The Defendants move that the answer of the witness be stricken out from the Record because it in no way is an answer to the question.

Witness continues. He had a natural son but he died, and on his death Sy Yoc Chai was adopted.

The Defendants make the same motion as before.

Q. Tell us in full about the children of Sy Bi (Mi) Bo  
489 and his wife.

A. They had two children, one boy and one girl, their natural son died very young so they had this boy adopted in his place.

Q. What is the name of the adopted son?

A. Yoc Chai.

Q. What is the name of the girl?

A. Sy Hui Niu.

Q. When was she born in reference to the time of the marriage of Sy Bi (Mi) Bo.

Defendants object on the ground that the question is incompetent and immaterial.

Witness answers. 6 or 7 years after the marriage.

Q. When was the boy born, who, you say, died very young, in reference to the time of the marriage of Sy Bi (Mi) Bo?

The Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. The next after their marriage.

Q. Where is Sy Hui Niu now?

Defendants object on the ground that the question is immaterial.

Witness answers. She is dead. She died about 2 months ago.

Q. Where did she die?

Same objection by Defendants.

Witness answers. Sy Hui Niu died in Au Chio Po.

Q. At the time of her death, was she married or single?

490 Same objection by Defendants.

Witness answers. She was married.

Q. What is the name of her husband?

Same objection by Defendants.

Witness answers. Siao Cheong.

Q. Where is he?

Same objection by Defendants.

Witness answers. Gone abroad.

Q. Did they have any children?

Same objection by Defendants.

Witness answers. Yes. One boy.

Q. How old is that boy?

Same objection by Defendants.

Witness answers. 7 or 8 years old.

Q. What is the name of the boy?

Same objection.

Witness answers. Siao Ho.

Q. At the time Sy Bi (Mi) Git died was he married or single?

Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. He was married at the time of his death.

Q. How do you know?

A. I was present at his wedding dinner.

Q. Whom did he marry?

The Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. He married a girl from Sin Lo.

491 Q. What was her name?

A. Yap Sung Niu.

Q. Where is she now?

A. She is dead.

The Defendants move that the answer of the witness be stricken out from the Record, not being the best evidence.

Q. When did she die?

Same objection by Defendant.

Witness answers. She has been dead more than 20 years.

Q. Did Sy Bi (Mi) Git and his wife, Yap Sung Niu, have any children, if so, how many?

Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. Yes, two.

Q. Boys or girls.

A. One boy and one girl?

Q. What is the name of the boy?

A. Sy Yoc Ling.

Q. Where is he now?

A. He is there. (Witness pointing to the Plaintiff sitting at the end of the room.)

Q. What is the name of the girl?

A. Sy Chiao Niu.

Q. Where is she?

A. She is in Che Chun, she is married there.

Q. When was Sy Yoc Ling born in reference to the time of the marriage of his parents?

492 Defendants object on the ground that the question is incompetent and not the best evidence.

Witness answers. One year after the marriage of his parents.

Q. And when was Sy Chiao Niu born in reference to the time of the marriage of her parents.

Same objection by Defendants.

Witness answers. 5 or 6 years from the time of the birth of her brother.

Q. State, if you know, what relation Sy Yoc Ling is to the Vicente Romero Sy Quia whom you have referred to as having been in Manila.

The Defendants object on the ground that the question is not competent.

Witness answers. He is the grandfather of Sy Yoc Ling.

— State if you know what relation, if any, Sy Yoc Ling is to the Sy Hien whom you have referred to as a brother of Vicente Romero Sy Quia, and as being in Manila.

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. He is the grand uncle of Sy Yoc Ling.

Afternoon session adjourned 5 P. M., September 27th, 1906, until 8:30 A. M., September 28th, 1906.

493 Morning Session, 8:45 A. M., September 28, 1906.

Continuation of direct examination of SY KONG LING by  
Mr. BISHOP:

All parties appearing as heretofore.

Question. Describe the marriage ceremony of Sy Bi (Mi) Bo briefly, so far as it is within your personal knowledge.

The Defendants object because it does not call for the best evidence of Sy Bi (Mi) Bo's marriage.

Witness answers. The marriage was first of all arranged by the Mediator and decided by one of his parents. The betrothal day was set and presents were exchanged. On the day of marriage he

sent a Bed Chair accompanied by the Mother to the house of the Bride. When the Bride arrived the couple exchanged Rings and Earth the family gifts ancestors' tablets and so forth and were thus married.

Q Describe the marriage ceremony of the 18th day distinctly, as far as is within your personal knowledge.

Ans. Omission.

Witness answers. He was present at several marriages the same ceremonies namely his Bride came from her Father's and they exchanged Rings and Earth the family gifts the ancestors' tablets and so forth and were thus married.

Q How was read and written the Chinese characters?

Ans. Yes I can both read and write.

Q How was written the Chinese characters the names of all the different persons who have mentioned in your testimony?

Ans. Yes.

Q Write the name of the Chinese character who was married on the 18th day of the 11th month of the Chinese character in the 18th year.

Ans. Yes I will do so. The name was the Chinese character of the 18th day of the 11th month.

Q Write the name of the 18th day of the 11th month.

Ans. The Chinese character of the 18th day of the 11th month is the Chinese character of the 18th day of the 11th month.

Q Write the name of the Chinese character who was married on the 18th day of the 11th month of the 18th year.

Witness writes. Chinese characters.

Q Write the Chinese character of the name of the 18th day of the 11th month.

Witness writes.

Q Write the name of the 18th day of the 11th month.

Witness writes. Chinese characters.

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Witness writes. Chinese characters.

Q Write the Chinese character of the name of the 18th day of the 11th month.

Witness writes. Chinese characters.

Q What connection, if any, is there between the persons Sy Quan or Sy Tiong Quan, whose name you have written both ways about the middle of page 377 of this Record, and the Vicente Romero Sy Qua whose name you have written in Chinese characters on the same page immediately after the next question.

The Defendants object on the ground that the question is incompetent and is also a repetition of a similar question put to, and answered by, The Witness.

496 Witness answers. They refer to the same identical person.

Q What connection, if any, was there between the Yap Juan Nui whose name you have written in Chinese characters at the bottom of page 377, and the names which you have written in Chinese characters in response to the two previous questions on the same page?

The Defendants object on the ground that the question is incompetent.

Witness answers. She is the wife of the man known as Sy Quan in Am Thau, and Sy Tiong Quan in his family, and as Vicente Romero Sy Qua in Manila.

Q What relation, if any, is there between the Sy Bi (Mi) Bo, whose name you have written in Chinese characters at the top of page 378, and the parties whose names you have written in Chinese characters upon page 377.

The Defendants object on the ground that the question is incompetent.

Witness answers. This Sy Bi (Mi) Bo is the eldest son of Sy Quan.

Q What relation, if any, is there between the Sy Bi (Mi) Git whose name you have written in Chinese characters immediately after question 3 on page 378 and the parties whose names you have written in Chinese characters on page 377.

Same objection by Defendants.

Witness answers. This Sy Bi (Mi) Git is the second son of Sy Quan, or Sy Tiong Quan, or Sy Qua, as the same, and  
497 identical person was known in different places, as I have stated.

Q What relation, if any, exists between the Plaintiff, Sy Yoc Ling, whose name you have written in Chinese characters, immediately after the 4th question on page 379, and the parties whose names you have written in Chinese characters on page 377?

Question objection to by Defendants on the ground of incompetency.

Witness answers. Sy Yoc Ling is the son of Bi (Mi) Git and Grandson of Sy Quan.

Mr. Rorer. That is all.



## Cross-examination by Messrs. OPISSO and SUMULONG:

Question. When you saw Sy Quian in Am Thau was Sy Bi (Mi) Bo already married?

A. Let me think. No, he was not married.

Mr. BISHOP requests permission to ask a few more questions on direct examination.

Q. Write in the Record in Chinese characters the name of Sy Hien.

The Defendants object on the ground that it is irrelevant and immaterial.

Witness writes. Do you want me to write Sy Hien or Sy Tiong Hien?

Q. Write the name both ways.

Witness writes. (Chinese characters separated into two parts by lead pencil mark.)

Q. State what relation, if any, the Sy Hien whose name  
498 you have just written in Chinese characters is to the Sy Quian or Sy Tiong Quian, or Vicente Romero Sy Quia, whose name you have written in Chinese characters upon page 377 of this Record.

The Defendants object on the ground that the question is incompetent, irrelevant, immaterial and a repetition of a similar question already answered by the witness.

Witness answers. The former is the younger brother of the latter.

Q. What relation, if any, is the Plaintiff Sy Yoc Ling whose name you have written in Chinese characters on page 379, to the Sy Hien whose name you have just written in Chinese characters on this page?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Sy Yoc Ling is his grand-nephew.

Mr. BISHOP: That is all.

## Cross-examination resumed by Messrs. OPISSO and SUMULONG:

Question. Who was older, you or Sy Bi (Mi) Bo?

A. Sy Bi (Mi) Bo was a year older than myself.

Q. Who was older you, or Sy Bi (Mi) Git?

A. Same age as myself.

Q. When did you first speak to Sy Quian?

A. It was when I was more than ten years old.

Q. How much more than ten years were you and where  
499 did you speak to Sy Quian?

A. I was either 14 or 15 years old, when I first spoke to him in Am Thau. If not 15 years, it was 16, I don't know exactly.

Q. How long had Sy Quian been in Am Thau when you first knew him?

A. The first time I knew him was when he came to Am Thau to attend to the funeral ceremonies of his parents.

Q. How long ago did Sy Bi (Mi) Bo marry?

A. About 34 or 35 years ago.

Q. How old was he when Yap Puan Niu died?

A. He was dead at the time Yap Puan Niu died.

Q. How old was Sy Bi (Mi) Git when Yap Puan Niu died?

A. He was also dead at the time Yap Puan Niu died.

Q. How long after Sy Bi (Mi) Bo's death did Yap Puan Niu die?

A. About 5 or 6 years.

Q. How long after the death of Sy Bi (Mi) Git did Yap Puan Niu die?

A. 7 or 8 years.

Q. Are you married or single?

A. I am married?

Q. Who married first, you, or Sy Bi (Mi) Bo?

A. Bi (Mi) Bo married first.

Q. Why has it taken so long a time for you before answering to the former question?

A. I have to recollect before I could answer it, as it was a neighbour's marriage and not a relation's.

500 Q. How long have you been married?

A. More than 30 years.

Q. Can you fix the date more exactly?

A. 33 years.

Q. How old was Sy Bi (Mi) Bo when he married?

A. When he was 21 or 22 years old.

Q. And how long a time after Sy Bi (Mi) Bo married did you marry?

A. About 3 years more or less.

Q. You married before Sy Bi (Mi) Git did you not?

A. No Bi (Mi) Git married first.

Q. How long before?

A. About 2 years more or less.

Q. You said you were present at the funeral of Sy Bi (Mi) Bo and Sy Bi (Mi) Git?

A. Yes. I was.

Q. Do you know the name of the Philippino woman who was living with Sy Quian in Manila?

A. I heard somebody call her "Lelan," I heard some Chinese call her this but I don't know if it is the right pronunciation.

Q. How long after Sy Bi (Mi) Bo's death did the funeral take place?

A. The Chinese custom is sometimes one day or three days after the death does the funeral take place.

Q. But in this particular instance how long after the death of Sy Bi (Mi) Bo was the funeral?

501 A. Some times three days some times two days. In China the funeral never takes place the same day the man dies.

Defendants repeat the question.

A. It is a long time and I do not remember. I do not remember how long after his death was he buried.

Q. Did you see his corpse?

A. Yes. I did.

Q. Did you see Sy Bi (Mi) Git's corpse?

A. Yes.

Q. Do you read and write Spanish?

A. No.

Q. Would you write the words Vicente Romero Sy Quia in Spanish?

A. No. I can not.

Q. How was Sy Quian called by his countrymen in Manila?

A. Quiana or Sy Quian.

Q. About what age was Sy Quian when you saw him first in Manila?

A. Let me see. He was about 45 or 46 years old then.

Q. Is it not true that Sy Quian was not called Sy Tiong Quian by his family but only Tiong?

A. No, he was never called Tiong in his family. Sy Tiong Quian was his proper name as given by his father, hence his name appears in his account books and letters in this form, namely Sy Tiong Quian. In China we usually call a man by his name only, without his surname. He therefore was most commonly called Quian.

Q. You mean to say then that you never heard him called  
502 by his relatives, Sy Tiong Quian and that if you know that that was his name is because you have seen it written in his tablet, for instance, made in his memory.

A. Sy Tiong Quian was his proper name when he was addressed in writing, he was called Sy Quian when being spoken to or of.

Q. Where have you ever seen written in Chinese characters the Name Vicente Romero Sy Quia?

A. What I have written was my own invention to try to render the name or sound rather in Chinese. I have never seen it written in Chinese before. Chinese characters never can express the accurate pronunciation of the foreign names.

Q. Do you speak any dialect or any language of the Philippine Islands?

A. I speak the Dialect of Camarines.

Q. How is that dialect called?

A. "Indio." It means a native of that place.

Q. Besides that dialect of Camarines do you speak any other dialect or language of the Philippine Islands?

A. Very little of the other dialects. One or two words only.

Q. What other dialects?

A. One or two words of the Manila dialect, or Visaya.

Q. How long have you been away from the Philippines?

A. Five or six years.

Q. Do you still have any business there?

A. Yes. It is in charge of my son.

503 Q. Do you still go there occasionally?

A. No. I have no paper that will land me there.

Q. When Sy Quian was living with Sy Tai in Calle San Fernando, was he living in the upper floor or in the ground floor?

A. Sy Quian and the Filipino woman and some children lived where Sy Tay had his store down stairs.

Q. Did you also live with him there, with Sy Tay?

A. In the same house, but Sy Tai lived on the ground floor.

Q. Was your brother also living there?

A. My brother was in Pangasinan, but had connection with this house which shipped goods to him in Pangasinan from Manila.

Q. Has your brother ever lived with you in that house in Calle San Fernando?

A. No, my brother had gone to Pangasinan, but he had a representative of his who lived in the same house with me.

Q. Has your brother ever lived in Manila?

A. Yes he did when he was a new comer for two or three years.

Q. But that was before you went to Manila?

A. I mean I lived there two or three years when I was a new comer.

Q. But we ask for your brother not for you.

A. Yes, my brother also did.

Q. When you went for the first time to Manila, your brother was already living in Pangasinan.

504 A. Yes.

Q. And ever since he continued living in Pangasinan?

A. Most of the time he made that place his residence.

Q. When your brother was not in Pangasinan where did he go?

A. To Manila.

Q. In what place did he stop?

A. For one time he stopped at San Fernando but other times later in a street the Chinese call "Ho Suan Hang," literally meaning "Umbrella street," I am not sure whether its foreign name is Payonero.

Q. What was the name of the child that Sy Bi (Mi) Bo had and died? We mean the boy that died?

A. I am not sure whether he was given any name at the time of his death.

Q. Are you sure that Sy Bi (Mi) Bo and his wife only had one natural son and one natural daughter? and Sy Yoc Chai?

A. No. Only had two natural children.

Q. You said that Sy Bi (Mi) Git had one son after the first year of his marriage and one daughter six years later during those six years did he and his wife have any children?

A. They had some children in those years but they died.

Q. What were those children's names?

A. I don't think they were given any names?

Q. Why not?

505 A. The Philippine children as a rule are given their names when they are baptized, but the Chinese have no fixed rule. some times a child is given a name only a few days after he was born, and some times, and in some families where the father had

been absent, no name was given to it, even if it was some two feet high above the ground. (Witness denoting the height by his hand.)

Q. When you went to Manila for the 3rd time in what place did you first meet Sy. Quidan?

A. In the second floor of the house I referred to.

A. In what street?

A. Calle San Fernando.

Q. Do you know how long had he been living there when you arrived?

A. I don't know. I lived there about 2 or 3 years then I came home.

Q. How long a time did elapse from the time you met Sy. Quidan in Am. Thau up to the time you met him again in Manila?

A. 5 or 6 years. No. 4 or 5 years.

Q. How many children were then living with Sy. Quidan in Calle San Fernando when you saw him there the first time you went to Manila?

A. One girl about 12 or 13 years old. (Witness indicating her height by his hand, who Sy. Quidan told me was his girl, beside her there were boys much younger than her. Sy. Quidan told me that this girl was his natural daughter by the Philippine woman, he also cautioned me not to give this away in his home in China.

506 Q. Were these boys and girl children of the Philippine Woman whom you referred to as "Lain" and who you said was living also with him in that house?

A. The Chinese say they were.

Q. Did Sy. Quidan ever tell you that those were his children by "Lain"?

A. Sy. Quidan only told me they were his children by a Philippine woman, who that woman was he did not tell me. Chinese who were there said they were the children of that woman. I have referred to, but I do not know of my own knowledge.

Q. His Yip Puan Niu ever adopted any child either for himself or for somebody else?

A. No.

Q. Was not Sy. Yoo Chin adopted by Yip Puan Niu for Sy. (Mi) Bo?

A. He was adopted by Sy. Bo & Mi. Bo and his wife they were both living at the time so they were quite competent to adopt a son for themselves.

Mr. Orinco. That is all.

Redirect examination by Mr. Benson:

Question. Is there any difference between the Manila dialect and the Naga dialect?

A. Yes, there is a difference.

Mr. Benson. That is all.

Mr. Orinco. That is all.

Morning session adjourned 12:11 M. September 23rd, 1900, until 2 P. M. same day.

307 Afternoon Session, 2 p. m., September 28, 1906.

All parties appearing as heretofore.

Mr. Oursio and Mr. SUMITOMO: We renew as regards this Witness the request and motion we made at the close of the testimony of the Witness Sy Pong, in the same manner as it appears on Page 144 of this Record.

Mr. BREWER: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146 made in conformity with the requests of the Attorneys for the Defendants and the Attorneys for the Plaintiffs, is equally applicable and has the same force with regard to the witness Sy Kong Lang as it had with regard to the Witness Sy Pong.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing, to read the interpretation of Sy Kong Lang's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter, and the Witness made one correction as follows:—

To change the fourth answer on Page 353 from, "For two or three years then I went there again" to "Fourteen or fifteen years then I went there again."

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking  
308 of the Deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having made one correction as above noted, and after having been cautioned by the Vice-Consul as follows:

"I caution you that if this, your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury."

He stated that he approved the same and that the same was correct and he signed it.

(Chinese Characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy in China, certify that the preceding is the deposition given before me on the 27th and 28th of September, 1906, by the Witness Sy Kong Lang, who before giving his testimony took the prescribed oath to tell the truth, and after having been informed of his right to correct in any particular if he desired and having corrected it in the one instance above noted and after having been cautioned that if his testimony is found to be untrue he is liable to the pains and penalties of perjury, signed it on finding it to be correct.

I also certify that this deposition has been written in my presence by Mrs. A. A. F. Mackinnon, a disinterested person, and that  
309 the same is a faithful expression of the testimony of the Wit-  
ness.



I also certify that the witness, after subscribing the same as above stated, took oath that the deposition subscribed by him contains the Truth, the whole Truth, and nothing but the Truth.

In witness whereof, I have hereunto set my hand and affixed the seal of this Consulate on this 28th day of September, 1906.

[CONSULAR SEAL.]

(Sgd.)

REA HANNA,

*Vice-Consul.*

Plaintiffs call as their tenth witness Sy Jong Oan.

Sy Jong Oan sworn through Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as follows:

"You do solemnly swear that the evidence you will give in this case shall be Truth, the whole Truth and nothing but the Truth. So help you, God."

The Defendants move that in addition to the oath about to be administered to the Witness for the plaintiffs, according to the rule of this Consulate, this witness be also sworn in the Chinese way, on the head of a white Rooster, cut by the witness himself, at the time of taking his oath, and giving his testimony.

Mr. Bishop objects for the reason that no such oath or formality is known to the laws of the United States, Philippine Islands, or China.

The Vice-Consul, Mr. Rea Hanna, states that he is not authorized to administer any other oath to the witness than the one which he now swears him.

The Defendants except to the ruling of the Vice-Consul.

SY JONG OAN sworn through the Interpreter, Mr. Li Ung Bing, by Mr. Hanna, Vice-Consul, as above stated by the Vice-Consul.

Question. What is your name?

A. Sy Jong Oan.

Q. Where do you live?

A. Am Thau.

Q. What is your occupation?

A. I am an Elder of the village.

Q. How old are you?

A. 53.

Q. About how many people are there in the village of Am Thau?

A. Including Na Au there are about 2,000 people.

Q. How long have you lived there?

A. I have been abroad, but since my return I have lived there.

Q. Where were you born?

A. Am Thau.

Q. When you went abroad to what place did you go?

A. Manila.

Q. How old were you when you first went abroad?

A. 21 years old.

Q. How long did you remain in Manila?

A. 5 years.

511 Q. And where did you then go?

A. Came Home.



- Q. How long did you remain at home?  
A. 2 years.  
Q. And then where did you go?  
A. Manila.  
Q. How long did you remain in Manila that time?  
A. 2 years. I came home then when I was 28 years old.  
Q. How long did you remain at home.  
A. 2 years again this time.  
Q. And then where did you go?  
A. To Manila.  
Q. How long did you remain in Manila?  
A. I came home when I was 30 years old and remained until I was 36, when I again went to Manila.  
Q. How long did you remain in Manila that time?  
A. 5 years.  
Q. And then where did you go?  
A. Came Home and since that time have been living in my village.  
Q. Did you know a man in Am Thau by the name of Sy Quian?  
A. Yes, I did.  
Q. When did you first know him?  
A. When I was 8 or 9 years old he returned to China then.  
Q. To what place in China?  
A. Am Thau.  
512 Q. How long did he remain in Am Thau?  
A. A year or more.  
Q. Where did he go then?  
A. Manila.  
Q. Did you ever see him again?  
A. Yes, when I went there at 21 I met him there.  
Q. What was the occasion of your meeting him there?  
A. I lived in Binondo and Sy Quian in Jaboneros I had a message for him so I called on him.  
Q. Did you meet him?  
A. Yes.  
Q. Have any conversation with him?  
A. Yes.  
Q. Where?  
A. In his house.  
Q. Did any one else live in that house?  
A. I saw a Phillipino woman and some men Phillipinos.  
Q. Did he go by the name of Sy Quian in Manila?  
**The Defendants object on the ground that the question is decidedly leading.**  
Question withdrawn.  
Q. By what name was he known in Manila.  
A. The Defendants make the same objection.  
Witness answers. Vicente Romero Sy Quia.  
Q. How often did you meet Vicente Romero Sy Quia. in Manila?  
A. Very often.  
Q. Where is he now?

## A. Dead.

513 The Defendants move that the answer of the witness be stricken out from the Record on the ground that it is not the best evidence.

Q. How do you know that Vicente Romero Sy Quia is dead?

A. I was in Manila at the time of his death, and came home the next year.

Q. When did he die?

The Defendants object on the ground that the question does not call for the best evidence.

Witness answers: He has been dead 14 years.

Q. State if you know where he was buried.

A. He was buried in the Chinese Cemetery in Manila.

Q. How do you know?

A. I was present at his funeral.

Q. At the time of his death was he a married or a single man?

The Defendants object on the ground that the question is incompetent, irrelevant and not the best evidence.

Witness answers: He was married.

Q. What was the name of his wife?

A. Yap Puan Niu.

The Defendants move that the answer of the witness be stricken out from the Record on the ground that it is incompetent and not the best evidence.

Q. Where did she live?

A. Am Thau.

Q. Where is she now?

A. Dead.

514 Q. The Defendants move that the answer of the witness be stricken out of the Record on the ground that it is not the best evidence.

Q. When did she die?

Same objection by Defendants.

A. She has been dead 15 or 16 years.

Q. By what name was Yap Puan Niu's husband known in Am Thau?

A. S. Quian.

Q. By what name was Yap Puan Niu's husband known in Manila?

The Defendants object on the ground that the question is leading and also a repetition.

Witness answers: Vicente Romero Sy Quia.

Q. How do you know?

A. I have been there myself.

Q. At the time of the death of Vicente Romero Sy Quia and Yap Puan Niu did they have any children?

Defendants object on the ground that the question is incompetent and not calling for the best evidence.

Witness answers. Yes.

Q. How many?

A. Two.

Q. Boys or girls?

A. Boys.

Q. What were their names?

A. The elder one Sy Bi (Mi) Bo and the younger one Sy Bi (Mi) Gi.

Q. Where are these two boys now?

515 A. Dead. Both.

The Defendants move that the answer of the witness be stricken out of the record on the ground that it is not the best evidence.

Q. At the time of the death of Sy Bi (Mi) Bo state if you know if he was married or single?

Same objection by Defendants.

Witness answers. He was married.

Q. How do you know?

The Defendants object on the ground that the question does not call for the best evidence of Sy Bi (Mi) Bo's marriage.

Witness answers. By reason of my being his Clausuan and neighbour.

Q. What was the name of his wife?

A. Ho Gim Nin of Wa Chu.

Q. Where is she?

A. Dead.

The Defendants move that the answer of the witness be stricken out of the Record on the ground that it is not the best evidence.

Q. How long has Sy Bi (Mi) Bo been dead?

Same objection.

Witness answer. 21 or 22 years.

Q. How long has his wife been dead.

Same objection.

Witness answers. 13 or 14 years.

Q. Did they have any children?

516 Defendants object on the ground that the question is incompetent and does not call for the best evidence.

Q. Witness answers. Yes.

Q. How many?

Same objection.

Witness answers. 2, one boy and one girl, the boy was an adopted son.

Q. What is the name of the boy?

A. Sy Yoc Chai.

Q. Where is he now?

A. In Manila.

Q. What is the name of the girl?

A. Sy Hui Niu.

Q. Where is she?

Defendants object on the ground that the question is immaterial.

Witness answers. Dead, she had been married in An Chio Pō. Her husband name is Siao Cheong.

The Defendants move that the answer of the witness be stricken out of the Record because it is irrelevant, incompetent, and immaterial.

Q. At the time of her death was she married or single?

Same objection by Defendants, based on the same grounds as the Motion.

Witness answers. She was married.

Q. What is her husband's name?

The Defendants object on the same ground as to the former question.

Witness answers. Siao Cheong.

Q. Where is he?

517 A. In Manila.

Q. How long has Sy Hui Niu been dead?

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. She died in the 6th moon of this year.

Q. Did they have any children?

Same objection by Defendants.

Witness answers. Yes. One boy by the name of Siao Ho.

Q. Where is he?

A. An Chio Pō.

Q. What was the name of the grandfather of Sy Yoc Chai and Sy Hui Niu?

The Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Sy Quian.

Q. Where did he live?

A. In Am Thau.

Q. How long did he live in Am Thau?

The Defendants object on the ground that the question leads the witness and has been asked at least twice before.

Witness answers. So far as I know he only lived there a few years after he came home to attend to the fung sui matters of his parents.

Afternoon session adjourned 4 P. M., September 28th, 1906, until  
8.30 A. M., September 29th, 1906.

318 Morning Session, 9.00 a. m., September 29, 1906.

Continuation of direct examination of SY JONG OAN.

By Mr. BRUNER:

All parties appearing as heretofore.

Question. When did Sy Bi (Mi) Git die?

Defendants object on the ground that the question does not call for the best evidence.

Witness answers. He has been dead 25 or 26 years.

Q. At the time of his death was he married or single.

Same objection.

Witness answers. He was married.

Q. What was the name of his wife?

A. Yap Song Niu.

Q. Where is she?

A. She is dead.

The Defendants move that the answer of the Witness be stricken out from the Record on the ground that it is not the best evidence.

Q. When did she die?

Same objection.

A. She has been dead 21 or 22 years.

Q. Did Sy Bi (Mi) Git and his wife have any children, if so, how many?

The Defendants object on the ground that the question is incompetent and does not call for the best evidence.

319 Witness answers. Yes, two.

Q. Boys or girls.

Same objection.

Witness answers. One boy and one girl.

Q. What are their names?

A. Sy Yoc Ling, the boy, and Sy Chiao Niu, the girl.

Q. Where is Sy Yoc Ling now?

A. He is there (Witness pointing to the Plaintiff sitting at the end of the room.)

Q. Where is the girl?

The Defendants object on the ground that the question is immaterial.

Witness answers. She is in Che Chiun, Tam Po being the name of her husband.

Q. What relation if any, is the Plaintiff Sy Yoc Ling to the Sy Quian whom you have mentioned as having formerly lived at Am Thau.

The Defendants object on the ground that the question is incompetent.

Witness answers. Sy Yoc Ling is the grandson of the Sy Quian I have mentioned.

Q. What relation, if any, is the Plaintiff Sy Yoc Ling to the Vicente Romero Sy Quia, whom you have mentioned as having died in Manila.

The Defendants object on the ground that the question is incompetent.

Witness answers. Sy Yoc Ling is the grandson of Vicente Romero Sy Quian of Manila, or Sy Quian.

Q. What identity, or connection, was there between  
520 the Sy Quian and the Vicente Romero Sy Quia whom you have just mentioned as the Grandfather of Sy Yoc Ling?

Same objection by Defendants.

Witness answers. He is the same man.

Q. Can you read and write the Chinese characters?

A. Yes, a little.

Q. Can you write the names in Chinese characters of the different persons you have mentioned in your testimony?

A. Yes.

Q. Please write in the Record the name of Sy Quian also the name of Vicente Romero Sy Quia.

Witness writes.

The Defendants in view of the fact that two previous witnesses have had the need of an explanation as regards how were they going to write the name of Sy Quian and for this reason the Record had to be put back on the typewriter so as to take down the information they asked. Defendants move, that in order to gain time the Record be not taken out of the typewriter until the witness asks for an explanation of how he — going to write Sy Quian's name, should he desire any.

Witness. Shall I write Sy Quian, or Sy Tiong Quian?

Q. Write the name both ways.

(Chinese characters separated into three parts by lead pencil marks.)

The above was written by Witness.

Q. Write the name of Sy Bi (Mi) Bo in Chinese characters in the Record.

521 Witness writes. (Chinese characters.)

Q. Write the name of Sy Bi (Mi) Git in Chinese characters in the Record.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Yoc Chai in Chinese characters in the Record.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Hui Niu in Chinese characters in the Record.

Witness writes. (Chinese characters.)

Q. Write the name in Chinese characters of Siao Ho.

Witness writes. (Chinese characters.)

Q. Write the name in Chinese characters of Sy Yoc Ling in the Record.

Witness writes. (Chinese characters.)

Q. Write the name of Sy Chiao Niu in Chinese characters in the Record.

Witness writes. (Chinese characters.)

Q. Did the man whom you have referred to as Sy Quian and Sy Tiong Quian, and Vicente Romero Sy Quia have any brothers.

Defendants object on the ground that the question is incompetent, irrelevant and immaterial.

Witness answers. Yes. He had.

Q. Where are those brothers now?

Defendants object on the ground that the question is incompetent and immaterial.

Witness answers. Sy Tai, Christian name Wagin Martines.

522 (INTERPRETER: It is impossible to understand the name as given by the Witness, and the foregoing spelling is the nearest possible way we can get to the sound.)

One of his brothers now dead. One brother is still living, Sy Hien by name, and is now in Manila.

Q. About how old is this brother who is in Manila?

Defendants object in the same manner.

Witness answers. Sy Hien is about 60 years or more.

Q. Write his name in the Record in Chinese characters.

Same objection by Defendants.

Witness writes. (Chinese characters.)

Q. Has the brother of Sy Quian or Vicente Romero Sy Quia any other Chinese name? Except the one you have just written?

The Defendants object the question is incompetent, irrelevant, immaterial and most of all leading.

Witness answers. Yes, Sy Tiong Hien.

Q. Please write the name in Chinese characters in the Record as last given by you.

Same objection by Defendants.

Witness writes. (Chinese characters.)

Q. What relation if any is the Plaintiff Sy Yoc Ling to the man whose name you have just written in two ways on this page.

Same objection by Defendants.

Witness answers. He is Yoc Ling's uncle.

523 Q. And what relation, if any is this man whose name you have just written on page 413 of this Record to the man



whom you referred to as Sy Quian, Sy Tiong Quian, and Vicente Romero Sy Quia?

The Defendants object on the ground that the question is incompetent, irrelevant, immaterial, leading and a repetition.

Witness answers, Brother. They were brothers.

Mr. Bishop: That is all.

Cross-examination of SY JONG OAN by Messrs. OPIANO and SUMULONG:

Question. How was Sy Quian called in Manila by his countrymen?

A. Vicente Romero Sy Quia.

Q. Have you ever seen the name Vicente Romero Sy Quia written in Chinese characters?

A. I have never seen that name written in Chinese. All his letters, that is letters addressed to him from China in Chinese, by Chinese, gave his name as Sy Tiong Quian.

Q. Therefore the Chinese characters you have written here are your composition?

A. Yes, my composition, trying to write his name as he was known in Manila.

Q. Will you please write in Chinese characters the name Lao Degario Aguilar?

A. There is no such sound in Chinese.

Q. Will you please write the name Francisco Gu-  
524 tierres?

A. It is very difficult to express the sound in Chinese.

Q. Will you please write the name Adolfo Zúñiga?

A. No I cannot write those names.

Q. Will you please write the name Roque Madalena Vito?

A. No, I cannot write those names.

Q. Have you ever written the Sy Tiong Quian?

A. That is the name of one person only.

Q. Question repeated.

A. Yes, I have.

Q. When?

A. When I had occasion to write his name.

Q. Where?

A. Only in letters to him.

Q. Did you ever call him by that name?

A. No, he was never called by that name. He was called Sy Quian in China, and Vicente Romero Sy Quia in Manila. The other is his name as it appears in his letters and account books.

Q. Did anybody else call him that name?

A. All the people in Manila called him Vicente Romero Sy Quia.

Q. How many people are there in Am-Thai?

A. About two thousand people, including Na-Au.

Q. We have not asked you anything about Na-Au, what we desire to know is the population of Am-Thai?

Q. They are of the same place and the people of the same surname.

Q. You said you were an elder of the village of Am Thau?

A. Yes.

Q. Is it not true that Na Au is a suburb, so to say, of Am Thau?

A. Yes. It is.

Q. Now, excluding the population of the suburb Na Au? What is the population of Am Thau?

A. Fifteen or sixteen hundred.

Q. Which has the larger population, Na Au or Am Thau?

A. Am Thau.

Q. About how many times larger?

A. It is larger by about a thousand people.

Q. How old were you when you came back to China for the first time?

A. 26 years old.

Q. How old were you when you came the second time?

A. I went abroad at 28 and came home at 30.

Q. How many years did you stay in Manila the 3rd time you went, and how old were you at that time?

A. The 3rd time I went to Manila I was 36, I stayed there about 3 or 6 years, and then went to Cacerayan de Tomaco.

(INTERPRETER: The spelling of that name was an invention on my part with a view to giving the sound of the place as given by the Witness.)

Q. How long a time did elapse from the first to the 2nd time you saw Sy Quian?

A. I saw him when I went there at 21, I saw him again when I went there at 28, saw him again when I went there at 36, and saw him the last time at 40, prior to his death.

Q. Were the wife, children, and grandchildren of Sy Quian present in Manila at the time of his death?

A. You mean the Chinese, in China?

Q. The wife, children and grandchildren that he might have at the time of his death without distinction of nationalities.

A. His two grandsons were there.

Q. What about his sons?

A. They were dead.

Q. Who were those two grand sons?

A. Sy Yoc Chai, Sy Yoc Ling.

Q. Were these the only relatives present in Manila at the time of his death?

A. These two were his grandsons, besides them there were many of his relatives, for instance, I counted as one of his relatives by reason of my having the same surname as his.

Q. Do you know whether or not there were any Filipino relatives there?

A. I don't know, I don't know his Filipino relatives.

Q. At the time of the death was Sy Quian living with Chinese, or with Filipinos?

A. At the time of his death he was living at Calle Jolo by himself, he told me he had married a Philipino woman and had  
527 children.

Q. At the time of Sy Quian's death where were Sy Yoc Ling and Sy Yoc Chai living, please tell us the town, street, and if you also know, the numbers of the house.

A. They were living at San Fernando. I have been home so long that I do not remember the rest.

Q. Since Sy Quian's death had Sy Yoc Chai ever left Manila?

A. Yes.

Q. Where to?

A. He was in Manila at the time of his death.

Q. Did he continue living in Manila from the time of Sy Quian's death up to the present time?

A. I do not know, I left Manila the next year after Sy Quian's death for China, and had been home ever since so I cannot tell whether he left Manila or not.

Q. Has Sy Yoc Ling been living in Manila from the time of Sy Quian's death up to the present time?

A. As I have stated, I left Manila the very next year after Sy Quian's death; at the time of my departure both Sy Yoc Ling and Sy Yoc Chai were still in Manila, Sy Yoc Ling has come home recently to get married.

Q. Where did you see Sy Yoc Ling for the first time after your departure from Manila?

A. I have been home 12 years, and it was something like 6 or 7 years after my departure from Manila that I saw Sy Yoc Ling again.

Q. What business did Sy Yoc Ling and Sy Yoc Chai have in Manila?

A. I don't know I have been home 12 years.

Q. We mean at the time of Sy Quian's death.

A. They were in Sy Tai's place.

Q. During the time you have been in Manila can you  
528 tell us whether Sy Yoc Ling and Sy Yoc Chai ever lived with Sy Quian in the same house?

A. No, they were not living in the same house with him.

Q. And they never had any business in common, is it not true.

A. No, they were not living in the same house.

Q. And they did not have any business in common?

A. No.

Q. Did you attend to Sy Hui Niu's wedding?

A. Yes, I was.

Q. When did it take place?

A. About ten years ago.

Q. You said you attended Sy Quian's funeral, can you tell us whether there was any near relatives of Sy Quian at the burial and if so, who was it?

A. Sy Yoc Chai and Sy Yoc Ling were his near relatives who were present.

Q. In what place is the Chinese Cemetery?

A. By the side of Sy Tai's grave was he buried.

Q. But in what place in Manila is that Cemetery?

A. I don't remember the name of that location. The Chinese call it "sien suan".

Q. Is it not true that there were also present at Sy Quian's funeral a great number of Chinese who were not relatives of his?

A. Yes. A great many of his Chinese friends.

Q. Was there any ceremony at the funeral, if so, please describe it.

529 A. According to the custom there the two grandsons I have mentioned, kissed the hand of their grandfather, and then the body was interred.

Q. And is it not true that nobody else of those present at the funeral kissed the hand of Sy Quian before going into the grave?

A. Yes. There were others, Filipino children.

Q. What Filipino children were those?

A. There were his children, named Gregorio, and Pedro.

Q. Who else?

A. No one else.

Q. Do you remember Juan?

A. No.

Q. About how old were Pedro and Gregorio?

A. Gregorio was more than 40 years old I should judge.

Q. And Pedro?

A. About 30 or more.

Q. How long had Sy Yoc Chai and Sy Yoc Ling been living in Manila at the time of Sy Quian's death?

A. About 7 or 8 years.

Q. Have you ever been at Sy Quian's house in Calle Jolo?

A. Yes. I always saw him sitting out side of the door.

Q. With whom was he living there?

A. With the Filipino woman and children.

Q. With whom was Sy Quian living in Calle Jaboneros?

530 A. With the Filipino woman.

Mr. Ovisso: That is all.

Redirect examination by Mr. Bishop:

Question. In your cross-examination upon page 417 you stated "The 3rd time I went to Manila I was 36, I stayed there about 5 or 6 years and then went to Caogaoyen de Tomaco" please repeat the name of that place and describe it.

A. Caogaoyen Tuguebarao (Interpreter takes spelling from map of Philippine Islands.)

Q. Then you mean Cagayan Province?

The Defendants object because the question is leading.

Witness answers. Yes. I mean that Province.

Q. Do you mean the Province of Tobacco, in place of De Tomaco, do you not?

Same objection by Defendants.

Witness answers. Yes. I mean that Province is well known as producing tobacco.

Q. You say you met Sy Yoc Ling in China some 6 or 7 years ago?

A. Yes.

Q. Do you know what was the occasion of his trip to China?

A. He came home this time to get married.

Q. About how long did he remain home?

A. More than a year.

531 Q. At this time where was Sy Yoc Chai?

A. Sy Yoc Chai also came home.

Q. Do you know the occasion of his coming home?

A. For the same purpose, to get married.

Q. About how long did he remain home?

A. About a year or so.

Q. Where was the funeral ceremony of Vicente Romero Sy Quia held in Manila?

A. No funeral ceremony took place, I mean a Chinese funeral ceremony, with the exception of the kissing of hands as I have described, this took place at Sien Juan, whose foreign name I have forgotten.

Q. Do you know whether or not any church service was held?

A. Yes. There was a church service.

Q. Where was that held?

A. In Binondo.

Mr. BISHOP: That is all.

Recross-examination by Messrs. OPISSO and SUMULONG:

Question. Was that ceremony at Binondo a Chinese ceremony?

A. No, not Chinese, Spanish.

Q. And did any other Chinese person of those present at Sy Quian's funeral with the exception of Sy Yoc Ling and Sy Yoc Chai kiss Sy Quian's hand?

A. No.

Mr. OPISSO: That is all.

532 Mr. BISHOP: That is all.

Morning Session adjourned at 12 M. until 2 P. M., September 29th, 1906.

Afternoon Session, 2 P. M., September 29th, 1906.

All parties appearing as heretofore.

Mr. OPISSO and Mr. SUMULONG: We renew as regards this Witness the request and motion we made at the close of the testimony of the Witness Sy Peng, in the same manner as it appears on Page 144 of this Record.

Mr. BISHOP: And we renew our statement and request as appears on Pages 144 and 145 of this Record.

The Vice-Consul states that the statement on Pages 145 and 146

made in conformity with the requests of the Attorneys for the Defendants and the Attorney for the Plaintiffs, is equally applicable and has the same force with regard to the Witness Sy Jong Oan as it had with regard to the Witness Sy Peng.

The Vice-Consul directs the Interpreter, Mr. Li Ung Bing, to read the interpretation of Sy Jong Oan's testimony to him in Chinese. Before the testimony was read to him the Vice-Consul informed him through the Interpreter that he could correct it in any particular if he wished to do so.

Testimony read to the Witness by the Interpreter, and the Witness made two corrections, as follows:

533

(1) To change the first answer on Page 414 from "He is Sy Yoc Ling's uncle," to read "He is Sy Yoc Ling's grand-uncle."

(2) To change the fifth answer on Page 417 from " \* \* \* and then went to Cacaoayen de Tomaco," to " \* \* \* and part of that time in Cacaoayen."

After the foregoing declaration had been read and interpreted to the Witness by Mr. Li Ung Bing, Interpreter for the taking of the Deposition, and after having been advised by the Vice-Consul that he could correct it in any particular if he wished to do so, and after having made two corrections as above noted, and after — been cautioned by the Vice-Consul as follows:

"I caution you that if this your sworn testimony is found to be untrue, you are liable to the pains and penalties of perjury."

he stated that he approved the same, and that the same was correct and he signed it.

(Chinese Characters.)

Witness:

(Sgd.) REA HANNA.

I, Rea Hanna, Vice-Consul of the United States of America, at Amoy in China, certify that the preceding is the deposition given before me on the 28th and 29th of September, 1906, by the Witness, Sy Jong Oan, who before giving his testimony took the prescribed oath to tell the Truth, and after having been informed  
534 of his right to correct it in any particular if he desired, and having corrected it in the two instances above noted and after having been cautioned that if his testimony is found to be untrue, he is liable to the pains and penalties of perjury, signed it on finding it to be correct.

I also certify that this deposition has been written in my presence by Mrs. A. A. Mackinnon, a disinterested person, and that the same is a faithful expression of the testimony of the Witness.

I also certify that the witness after subscribing the same as above stated, took oath that the deposition subscribed by him, contains the Truth, the whole Truth and nothing but the Truth.



In witness whereof, I have hereunto set my hand and affixed the seal of this consulate on this 29th day of September, 1906.

(Sgd.)

[CONSULAR SEAL.]

REA HANNA,

*Vice-Consul.*

Attorneys for the Plaintiffs and Attornies for the Defendants hereby agree that the translation of Exhibits 1, 2, and 3 of the Plaintiffs, which translation has been marked for identification "Defendants' Exhibit A," and introduced by the defendants in the Record as part of the cross examination of the Second Witness of the Plaintiffs, Sy Peng, is the official translation of said Plaintiffs' Exhibits 1, 2, and 3, made by the Official Interpreter of the

535 Consulate of the United States of America in Amoy China, Mr. Li Ung Bing, also acting as Interpreter for the taking of the Depositions of the Witnesses for the Plaintiffs under the commission issued by the Court of First Instance of the City of Manila, Philippine Islands, dated August 20th, 1906, signed by the Hon. A. S. Crossfield, Judge, of part II of said Court on the afore-said date.

Mr. HANNA, Vice-Consul: I stated a week ago that, on account of the Consul going to the States on leave of absence, and on account of the fact that I shall be in charge of the Consulate from October 1st, my official Consular duties will not allow me time to continue the hearing of the Deposition so I declare it closed with this Witness. If the taking of testimony had proceeded with greater celerity, all of the Witnesses might have testified by now, as the Deposition has occupied three Weeks' time. If any further witnesses either for the Plaintiffs or Defendants are necessary the hearing of their testimony will have to be postponed until March 1st, 1907, the date of the probable return of the Consul. As the time is too long to admit of an adjournment I hereby declare this Deposition closed and will proceed with the certifying thereof.

AMOY, CHINA, *September 29th*, 1906.

I, Rea Hanna, American Vice-Consul, appointed Commissioner of the Court of First Instance for the City of Manila, to take the  
536 foregoing Deposition in the Case of Sy Yoc Lieng, et al., Plaintiffs, vs. Petronila Encarnación, et al., Defendants, do hereby certify that the foregoing Deposition has been taken before me according to law, and is a full and complete record of the testimony given, without omission or alteration in any particular.

In witness whereof, I have hereunto set my hand as Commissioner and affixed the Seal of the Consulate of the United States of America, at Amoy, China, this 29th day of September, 1906.

All clerical alterations, erasures and additions made before signing.

[CONSULAR SEAL.]

(Sgd.)

REA HANNA,

*American Vice-Consul, Commissioner.*



## 537 (DEFENDANT'S EXHIBIT A. Rea Hanna, Vice-Consul.)

*Translation of Table, Plaintiffs' Exhibit No. 1.*

## American Consular Service.

*Translation of Tablet, Plaintiffs' Exhibit No. 1.*

Tablet of Mr. Sy (Name) Tiong Quian (Chinese characters) and of his wife Mrs. Yap Puan, (Chinese characters above) (Alias) Chi Kien (Chinese characters) Sy (Chinese characters above) lady of the seventh official rank, our deceased grandfather and grandmother respectively, both of the Imperial Chin Empire.

Filial grandsons:

Yoc Ling (Chinese characters)

Yoc Chai (Chinese characters)

Respectfully Record.

*Translation of the Inner Tablet of the same Plaintiffs' Exhibit No. 1.*

Deceased Grand-father Mr. Sy (name) Tiong Quian was born, Time (Chinese characters above) of Jen (Chinese characters above) between the hours of 4 and 6 A. M. Int: 4th day 1st Moon Kui Wie (Chinese characters above) year, (84 years ago, Note by the Interpreter) Died Time of Su (Chinese characters) between the hour- of 10 and 12 22nd Day, 11th Moon, Sin Bau Year. (16 Years ago.

By the Interpreter.)

538 Deceased Grandmother, (name) Sy Yap Si, (a) (Chinese characters above), (Her Virgian name) (b) Puan Kien (Chinese characters above) was born "Time of Jen, 12th day, 3rd Moon, Ting Hai (Chinese characters above) Year, (80 years ago—By the Interpreter.)

Died "Time of Hai" (Chinese characters above) (Between the hours of 10 and 12 P. M. By the Interpreter.) 3rd day, 12th Moon, Kui Su Year. (14 years ago—By the Interpreter.)

*(Translation of Tablet Plaintiffs' Exhibit No. 2.)*

Tablet of Mr. Sy, (name) Bi or Mi Bo, (Chinese characters), deceased father, and of Mrs. Sy Ho Joo Jen, (Chinese characters above) Lady of the 7th official rank; both of the Imperial Ching Empire.

Filial son Yoc Chai (Chinese Characters).

Offering sacrifices.

*(Translation of the Inner Tablet of the Same Tablet Marked Plaintiffs' Exhibit No. 2.)*

Mr. Bi or Mi Bo (Babe name) died at the age of 35; was born, "Time of Jen", 17th day 7th Moon, B. Chen (Chinese characters above) Year. (59 years ago that is to say the 28th year of Tao Kuang. By the Interpreter.)

Died "Tie of Su" (Chinese characters) 23rd day, 7th Moon, Kui Su Year, (19th year of Kuang Hsu, or 14 years ago. By the interpreter.)

Mrs. King Niu (Chinese characters) died at the age of 44; was born "Time of Jen," 4th day, 2nd Moon, Kian Suo (Chinese characters) Year. (57 years ago—by the Interpreter.) and died "Time of Yu (Chinese characters) (Note by the Interpreter—Between the hours of 6 and 8 a. m.), 3rd day, 8th Moon, Jen Wu (Chinese characters above) Year. (Note by the Interpreter—25 years ago.)

Grave located at Pi Ah Kien. (Chinese characters), Location by the Compass as follows:

(a) (Chinese characters.)

(Note by the Interpreter—These Chinese characters represent technical terms in Chinese as they appear on the surface of a Chinese compass, and their true meaning are known only to a Chinese geomancer or a Fun Sui Teller.)

*(Translation of Tablet No. 3.)*

Tablet of Mr. Sy (Name) Bi or Mi Gi, (Chinese characters above) deceased father and his wife, Mrs. Sy Yap Sung Niu, (Chinese characters) Lady of the 7th Official rank.

Filial sons:

Yoc Ling (Chinese characters)

Yoc Boon (Chinese characters)

Jointly offering sacrifices.

540 Note by the Interpreter: The Chinese character forming the last name of Yoc Ling is (Chinese character) a different character from the one used to denote the last name of Yoc Ling as appearing in Tablet No. 1 (Chinese character). They are, however, pronounced in Chinese just the same, viz. "Ling."

*(Translation of the Inner Tablet of the Same Tablet Marked Plaintiffs' Exhibit No. 3.)*

Mr. Sy Bi or Mi Gi (Chinese characters) died at the age of 32; was born, "Time of Chao" (Chinese characters), (Note by the Interpreter—between the Hours of 2 and 4 a. m.) 11th Day, 9th Moon, Chi Yu (Chinese characters above) Year. (Note by the Interpreter—58 years ago.)

And died "Time of Su" (Chinese character) 21st day, 7th Moon, Kian Chen (Chinese characters) Year of Kuang Hsu, (Note by the Interpreter—the 6th Year of Kuang Hsu, or 27 years ago.)

Grave at Hui Yao (Chinese characters) Location by the Compass as follows:

(Chinese characters.)

Mr. Yap Sung, our deceased mother, died at the age of 32; was born 15th day 10th Moon, Kui Chao Year of Tao Kuang, "Time" being unknown. (Note by the Interpreter—54 years ago) and died "Time of Jen", 28th day of the 4th Moon, Kia Ching Year of

Kuang Hsu. (Note by the Interpreter—10th year of Kuang Hsu or 23 years ago.

541 Grave located at Tu Ti Kung Po San (Chinese characters) Location by Compass as follows:  
(Chinese characters.)

AMERICAN CONSULATE,  
AMOY, CHINA, September 13, 1906.

I hereby certify that the foregoing translations are the true and faithful translations of the Chinese characters as appearing on the Tablets, i. e., No. 1, 2, and 3, with the exception of the technical terms of the Chinese compass, which are all given in the original characters, the "Notes by the Interpreter", being in all cases my notes.

(Sgd.)

LI UNG BING,  
*Interpreter, American Consulate, Amoy, China.*

542

(EXHIBIT.)

Ex. D. 5. 4164.

(Heading and Title Omitted.)

To the plaintiffs or their attorneys:

Please accept notice that the undersigned as attorneys for the defendants will take the depositions of the witnesses residing in the town of Vigan, Ilocos Sur, P. I. whose names are: Estefania Crisologo, Alejandra Singson, Silveria Damian, Remigio Tongson, Roman Gray, Paulino Revilla, Juana Querol, Alejandra Querol (blue pencilled), Melanio Lazo.

Said depositions will be taken before the Hon. Elias Abaya, Justice of the Peace of Vigan, Ilocos Sur, P. I., the eighteenth day of July, 1906, at 9 A. M., or as soon thereafter as may be done in the Court room of the Justice of the Peace Court of Vigan, P. I. and that said depositions will be presented by us as proof in the hearing of the above entitled cause, to wit: the civil case No. 4164 of the Court of First Instance of Manila. A copy of a sworn statement which demonstrates that the case in question is comprehended in Art. 355 of the Code of Procedure, is attached hereto, and in order to give you an opportunity to be present or represented in the act of taking the depositions of the said witnesses, you are informed of the following sailings of vessels:

543 The steamers "Churruca" of the Compañia Maritima, and "Bunuan" of Tan-Auco, will sail from Manila on or about the 9th on the present month of July and will arrive about the 14th.

You are further advised that the journey can be made by land, taking the train from Manila to Dagupan, and from this last point,

in carromata or quiles to Vigan, the journey necessitating about four days, and the trains leaving for Dagupan daily.

Manila 5 of July, 1906.

(Sgd.) ROSADO, SANZ & OPISSO,  
Attorneys 31, Plaza del Padre Moraga, Manila.  
(Sgd.) LESESMA, SUMULONG & QUINTOS,  
Attorneys for Gregorio Sy-Quia.  
M. LEGASPI FLORENDO,  
Attorney for G. M. Sy-Quia.  
(Sgd.) BISHOP & O'BRIEN,  
Plaintiffs' Attorneys.

(Stamp illegible.)

July 5, 1906.

CITY OF MANILA,  
Philippine Islands, ss:

Antonio Sanz, after being sworn in proper legal form deposes and says:

That he is one of the attorneys for the defendants Don Pedro and Don Juan Sy-Quia in the civil cause No. 4164 of the Court of 1st Instance of Manila, entitled Sy Joc Lieng and others against Petronila Encarnacion and others.

That the declarations of the following witnesses are necessary for the defense of all the defendants in said cause: Estefania 544 Crisologo, Alejandra Singson, Silveria Damian, Reinigio Tongson, Roman Gray, Paulino Revilla, Juana Querol, Alejandra Querol, Melanio Lazo.

That each and every one of the said witnesses reside outside of the City of Manila, wherein their declarations are needed for the hearing of the above mentioned cause.

That all of said witnesses reside in Vigan, Ilocos Sur, P. I., the distance between the place of their residence and that where the trial will be celebrated, that is, the City of Manila, being more than 30 miles by the customary route.

That it is not practicable for the defendants to assure nor compel the said witnesses to appear at the trial of this cause.

That the case is one of those comprehended in art. 355 in relation with Art. 406 of the Code of Procedure.

That from this date until the 18th of July, 1906, there is more than sufficient time for the plaintiffs or their attorneys to be present or represented in the act of taking the depositions of the said witnesses in the town of Vigan, province of Ilocos Sur, P. I., and that this deponent who is now in Manila will be in Vigan by that date, the 18th of July, 1906.

545

(Sgd.)

ANTONIO SANZ.

Subscribed and sworn to before me this 5th day of July, 1906.  
The deponent exhibited his certificate of cedula No. A 1395485,

issued by the Collector of Revenue of this City of Manila, the 16th of February, 1906.

(Sgd.)

[ NOTARIAL SEAL. ]

J. R. SERRA,

*Notary Public.*

The commission expires the 31 of December, 1906.

Stamp.

(Heading and Title Omitted.)

The following is hereby stipulated between the Attorneys for the parties:

That it being convenient to the Attorneys for the plaintiffs to transfer the taking of the depositions of the witnesses for the defendants residing in Vigan, notice of which was given with sufficient anticipation for the 18th instant, the Attorneys for the defendants agree to the transfer requested by the said Attorneys for the plaintiffs in order that the said act be celebrated the 23rd day of the present month of July in the place and before the Authority already mentioned in the notification given them to that effect.

In testimony whereof the present stipulation is signed in Manila the 7th of July, 1906.

(Sgd.)

BISHOP & O'BRIEN,

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys 31, Plaza del Padre Moraga, Manila.*

I, Simeon Ramos, having been designated by the Attorneys Sres.

Mariano Legaspi and Antonio Sanz and W. H. Bishop to act

546 as interpreter of Ilocano in the depositions of some witnesses

in cause No. 41, 64 of the Court of First Instance of Manila,

which depositions are to be taken before the Justice of the Peace of

Vigan, Province of Ilocos Sur, Philippine Islands, solemnly swear to

perform faithfully and well the duties of interpreter in said desposi-

tions, to the best of my knowledge and understanding. So help me

God.

(Sgd.)

SIMEON RAMOS.

Subscribed and sworn to before me in Vigan this 23rd day of

July, 1906, deponent having exhibited his personal certificate of

cedula No. 671172, issued in Vigan, Ilocos Sur, the 11th day of

April, 1906, by the Municipal Treasurer of this Municipality.

(Sgd.)

ELIAS P. ABAYA,

*Justice of the Peace, Vigan.*

Documentary Internal Revenue Stamp. Cancelled by Stamp of  
the Justice of the Peace Court.

*Deposition.*

UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the civil cause No. 4164 of the Court of First Instance of Manila, entitled:

SY JOC LIENG and Others, Plaintiffs,  
against  
PETRONILA ENCARNACION, GREGORIO SY-QUIA, JUAN SY-QUIA,  
PEDRO SY QUIA, GENEROSO MENDOZA, Defendants.

547 In the Justice of the Peace Court of Vigan, Province of Ilocos Sur, P. I., before me the undersigned Justice of the Peace of said Court, appeared this 23rd day of July, 1906 A. D., the Attorneys Sres. Anotnio Sanz and Mariano Legaspi on one part and Sr. W. H. Bishop, also Attorney, on the other, with the object of taking the depositions of the witnesses, for the defendants, residing in this province, named Estefania Crisologo, Alejandra Singson, Silveria Damian, Remigio Tongson, Roman Gray, Paulino Revilla, Melanio Lazo, whose declarations the defendants intend to use as proof in the above entitled matter: before commencing the taxing of the depositions of said witnesses the Attorneys for the parties agreed that with respect to the witnesses who do not understand Spanish Señor Simeon Ramos will act as interpreter from Ilocano, under the inspection and control of the Sr. Judge, who also knowing Ilocano can certify the interpretations as correct and the said Attorneys sign in this place in proof that the aforesaid was solemnly stipulated by them.

BISHOP & O'BRIEN.  
(Sgd.) ROSADO, SANZ & OPISSO.  
ANTONIO SANZ.  
M. LEGASPI FLORENDO.

Then the undersigned Justice of the Peace administered the oath to the said interpreter which was sworn in legal form under which oath he offered to interpret faithfully and well the declaration of the witnesses who might need to be interpreted.

The Attorneys Legaspi and Sanz presented the witness D. REMIGIO TONGSON who was sworn by me to tell the truth, the whole truth and nothing but the truth in all he was asked, and who testified in Spanish as follows:

Direct examination by Mr. SANZ:

548 Q. What is your name?  
W. Remigio Tongson.

— Where do you live?

A. In Calle San Jose No.—I think—348.

— What is your profession?

A. Proprietor.

— How old are you?

A. 86 years.

— Did you know D. Vicente Romero Sy Quia?

— Yes, I knew him; being little more than a child.

— Tell me, what is your civil status?

A. Widower.

— What year did you know D. Vicente Romero Sy Quia and why?

— The year 39 or 40, more or less and I knew him because at that time I was a student and when I left the College to accompany the Ilocano travelers who arrived I knew this Chinaman in a store in Calle San Fernando, District of Binondo, Manila.

— How old was D. Vicente Romero Sy Quia when you knew him for the first time?

— Approximately thirteen or fourteen years.

— How do you know that he was thirteen or fourteen years old?

— That was the age that he appeared to be then.

— What was the civil status of Mr. Sy-Quia when you knew him?

A. He was single.

— Do you know whether later on he changed his civil status?

— No, I don't know that.

— Did you know Da. Petronila Encarnacion?

549 — Yes, because she was my neighbor.

— Do you know whether Doña Petronila Encarnacion was married or single?

— Single.

— Was she never married?

— She married D. Vicente Romero Sy Quia.

— Then D. Vicente Romero Sy Quia whom you knew when single married subsequently?

— Yes, he married Da. Petronila Encarnacion.

— Did you have occasion to deal with D. Vicente Romero Sy Quia during the first years of his marriage with Da. Petronila Encarnacion?

— Yes, in business dealings because he was then a merchant.

— How much time elapsed from the time that you knew D. Vicente Romero Sy Quia for the first time until he was married?

— From the year 39 or 40 until 53 when he married and I continued dealing with him after he married until his death.

— Can you tell us where he was residing or rather where D. Vicente Romero Sy Quia was residing during this period of time?

— I knew him in Manila and he came to Vigan before he married.

— How long was Mr. Sy Quia residing in Vigan before he married?

— I don't know exactly, but in the year 1847 when I was married to my first wife Mr. Sy Quia was already in Vigan.

— In that year 1847, what idea was had here in Vigan of Mr. Sy Quia in relation to his civil status?



A. He was single.

— Where did Mr. Sy Quia reside after his marriage with Doña Petronila Encarnacion?

— First in Vigan and later in Manila.

550 — Do you know whether after he was married he left the Philippine Islands?

— Yes, he left the Philippines to go to China, having already had all the children now living and the said journey only lasted some months because he returned very soon.

Q. How do you know that?

A. Because I visited their place in Manila as well as in Vigan.

Q. Do you know whether Don Vicente Romero Sy Quia was rich or poor before he married Doña Petronila Encarnacion?

The plaintiffs object as leading, incompetent and irrelevant to the question.

A. Rich no, he only had an ordinary living.

Q. What was his occupation then?

A. When he came he was only a traffic-er with a small amount of effects and could not have been rich.

Examination by Mr. LEGASPE:

Q. Do you know whether Sr. Romero Sy Quia after marrying Doña Petronila Encarnacion had any children by her?

A. I know it very well because we have seen all the children here.

Q. Do you know the names of those children?

A. Gregorio, Pedro, Juan, Maria and another woman who was called Ayang whose had died.

Attorneys for the defendants state that they have no further questions to ask of this witness.

Cross-examination by Mr. Bishop:

Q. What business was Vicente Romero Sy Quia employed at when you knew him for the first time?

A. He had no business when I knew him for the first time, because he was a child and was employed in a store.

551 Q. Whose tienda was that where you knew Dr. Vicente Romero Sy Quia for the first time and where was it?

A. One of the stores on San Fernando in Manila.

Q. Do you know the name of the proprietor or owner of that store?

A. I do not.

Q. How old were you when you knew Vicente for the first time?

A. I was then about twenty years old.

Q. Then you were older than Vicente?

A. Yes, sir.

Q. How many years older are you than Vicente?

A. I calculate that I was seven or eight years older than Sy Quia.

Q. About how old was Vicente when he came to Vigan the first time?

A. I don't know, but I calculate that he was about thirty years.

Q. How long was Vicente in Vigan before he married Petronila?

A. About three or four years Vicente was in Vigan before he married Petronila.

Q. About how old was Vicente when he married Petronila?

A. I don't know how old he was but I calculate that he was 26, 27 up to 30 more or less.

Q. In what year did he marry Petronila?

A. The year 1853 Vicente married Petronila?

Q. Did Vicente marry before or after you did?

A. After.

Q. If Vicente was thirty years old when he came to Vigan—

The Attorneys Sres. Legaspi and Sanz object to the question as not proper cross-examination, because the witness did not state that Mr. Sequis was thirty years old when he came to Vigan.

Q. If Vicente was thirty years old when he came to Vigan how old was he when — got married?

SANE. The same objection as made before.

A. I calculate that he was between 25 and 30 years old but I cannot state exactly.

Q. How many years did you know Vicente before he came to Vigan?

A. I knew him in the year 1839 or '40.

Q. How many years did you know Vicente in Manila before he came to Vigan?

A. I have already answered that question.

Q. Repeat my question.

Mr. Risher. How many years did you know Vicente in Manila before he came to Vigan?

A. I went to Manila the last century, the year 1835, I was in Manila until the year 45 in which year I returned in January.

Q. While Vicente lived in Manila how often did you see him?

A. I only saw him on some occasions.

Q. While you were a student in Manila in what part of the City did you live?

A. I lived in the Colegio de Letran.

Q. Mr. Risher. That is all.

After the witness had read his declaration himself and after having been advised by the Judge that he could correct it in any particular if he desired, he stated that he was satisfied with it and signed it.

(Sgd.)

REMIGIO TONGSON.

I, Elias P. Abaya, Justice of the Peace of Vigan, Province of Ilocos Sur, Philippine Islands, certify that the foregoing is the deposition given before me this 23rd day of July, 1906, by the witness Don Remigio Tongson, who, before being

seated to testify, was sworn in proper form to tell the truth, and afterwards read carefully his said declaration himself and being informed of his right to correct it in any particular if he desired, signed it because he found it correct. I further certify that this declaration was written in my presence and under my direction by Don Ramon Crisologo, disinterested person and that the said — is a faithful expression of the statements made by the witness. In testimony whereof I sign and affix my official seal, in Vigan the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,  
*Justice of the Peace, Vigan.*

Documentary stamp cancelled by impression of rubber stamp of the Justice of the Peace Court of Vigan.

It being twelve o'clock the proceeding was suspended by mutual agreement until three o'clock sharp in the afternoon.

The Attorneys returning to meet in this Court of the Justice of the Peace at three o'clock in the afternoon of this same day, 23rd of July, 1906, the Sres. Legaspi and Sanz presented the witness ROMAN GRAY, whom the undersigned Judge administered the oath to tell the truth, the whole truth and nothing but the truth, which he solemnly offered to do under the oath thus taken, testifying in the following manner:

Q. What is your name?

A. Roman Gray.

Q. Where do you live?

A. Here in Vigan.

Q. What is your profession?

A. Clerk.

554 Q. What is your civil status?

A. Married.

Q. How old are you?

A. Seventy-two years.

Q. What position or occupation were you employed in in the year 1853?

A. Clerk of the Parish and Provisorato.

Q. From when to when did you hold those positions?

A. From the year 1850 to the present time without interruption in the Parish and in reference to the Provisorato I quit in the year 1872.

Q. When did you begin to be clerk of the Provisorato?

A. The year 1850.

Q. Did you know D. Vicente Romero Sy-Quia?

A. Yes sir.

Q. When did you know him and why?

A. I knew him about the year 1851 when he appeared in the provisorato requesting to be baptized a Christian.

Q. Of what race was D. Vicente Romero Sy-Quia?

A. Chinese.

Q. Do you know whether he was baptized?

A. Yes sir.

Q. Do you know the civil status of D. Vicente Romero Sy-Quia when he was baptized?

A. He was single.

Q. Do you know whether D. Vicente Romero Sy-Quia was ever married?

A. Yes sir, he got married here in Vigan.

Q. When and with whom?

A. The ninth of June 1858 he got married to Da. Petronila Encarnacion, native of Vigan.

Q. How do you know that?

555 A. I know, because he came to the provisorato again requesting that he be married to Da. Petronila Encarnacion, and the opportune matrimonial expediente was formed.

Q. Will you tell me what that expediente is that you refer to?

A. The expediente of being single and free.

Q. Where is that expediente?

A. It is not to be found here now.

Q. What has become of it?

A. I don't know because during the time of the revolution in 1898 the insurgents destroyed all the papers of the provisorato and the bishopry here.

Q. How do you know that this expediente was destroyed?

A. I know because after P. Fidel came those papers were not to be found.

Q. Did you look for them?

A. No.

Q. Then how do you know that they have been destroyed?

A. I know because Father Fidel came to take charge of the Bishopry and was with me frequently in the parish and when I accompanied him to the archives of the bishopry none of the papers that had been there were to be found.

Q. In the expediente of being single and free to which you refer what was the civil status of D. Vicente Romero Sy-Quia as it appeared there?

A. As a single and free person.

Q. How was it shown in that expediente that he was single?

Mr. Bishop objects to the question as being incompetent and because it asks for a conclusion of the witness.

Q. How was it shown in that expediente that he was single?

A. By the declarations of witnesses.

Q. Did you read that expediente?

556 A. Yes sir.

Q. Can you tell us who were the witnesses who testified in that expediente regarding the singleness and liberty of Mr. Sy-Quia?

A. Two Chinese called Tanjaq and the other Chanculi.

Q. Can you tell us whether Mr. Sy-Quia testified in that expediente?

A. Yes sir.

Q. Do you know what he testified to in respect to his civil status?

The attorney for the plaintiff object- to this question as incompetent.

A. Mr. Sy-Quia testified that he was single.

Q. Were you present at the wedding of Don Vicente Romero Sy-Quia and Da. Petronila Encarnacion.

A. I was not present at the act of the celebration of the wedding.

Q. Did you read the expediente as to Don Vicente Syquia being single?

A. Yes sir.

Q. Do you remember who was the actuary in that expediente?

A. The ecclesiastical Notary before the Provisor.

Q. Do you know whether those witnesses when testifying in that expediente did so under oath?

A. Yes sir, certainly.

Q. Was the marriage of Don Vicente Romero Syquia and Da. Petronila Encarnacion consummated?

The attorney for the plaintiff objects to the question as being incompetent for the reason that the witness was not present at the celebration of said marriage.

A. It was celebrated in the Cathedral of this city before the Pbro. Don Marcelino Resurrecion in the presence of two  
557 witnesses.

The attorney for the plaintiff asks that the answer be excluded because it is not the best evidence.

Q. How do you know that?

A. I know because I am the clerk and I myself made the entry of the marriage in the book.

Q. Do you know whether during the marriage of D. Vicente Romero Syquia with Da. Petronila Encarnacion they had any children?

A. Yes sir.

Q. State their names.

A. The first was named Apolinaria, Maria, Gregorio, Pedro and Juan; all born here in Vigan.

Q. Did you personally know all of them?

A. No sir, only Gregorio.

Q. And how did you find out that that marriage had five children?

A. I knew because they were born here.

Q. Do you know where the children of D. Vicente Romero Syquia and Da. Petronila Encarnacion were baptized?

A. In this church cathedral.

Q. Was the baptism of those children made to appear in any document?

A. In the book of baptisms.

Cross-examination by Mr. BISHOP:

Q. Were you present when D. Vicente Romero Syquia made that declaration in reference to his being single?

A. I was not present when he made the declaration, but I saw it in the said expediente of the Notary.

Q. All you know is what appears in the expediente made by the Notary of the Church, but you have no personal knowledge of the act?

558 A. Yes sir, because as clerk I am not obliged to take part.

Q. You did not see or hear Vicente or the witnesses make the declaration?

A. What declaration (the witness asks)?

Q. The declaration which you have testified that Vicente Romero Syquia and the two Chinese witnesses made?

A. I saw Vicente Romero Syquia and the two Chinese witnesses in the office of the Notary of the Provisorato but I did not hear any of them testify.

Q. Did you not hear Don Vicente Romero Syquia make his declaration?

A. I did not hear him but I saw him declaring before the Notary.

The plaintiff asks that the testimony of this witness with reference to the declaration made by D. Vicente Romero Syquia and the two Chinese witnesses, as well as the contents of said declarations be not considered for the reason that they are incompetent and irrelevant. It is hearsay and is not the best evidence.

Q. Were you present when each one of the children were baptized?

A. I was not present.

Q. Then your only knowledge is from the Rigistry of Baptisms?

A. No, not only the Registry of Baptisms but also I know it from the Municipal Padron *when* was then kept here and in which was inserted the children of wedded parties.

Q. You don't remember having been present when these children were baptized?

A. I remember that I was not present.

559 Q. The attorney for the plaintiff asks that the testimony of this witness with reference to the baptism of children and birth be denied as incompetent and irrelevant because it is *hearday* and not the best evidence.

Q. The knowledge that you have with reference to the birth of these children is based on the Registry of the Church and the Municipal Padron?

A. Yes sir, the two.

Q. The same motion as before with reference to the birth of the children.

Mr. BISHOP: That is all.

Redirect examination by the attorneys for the defendants:

Q. You stated that you read the declarations which D. Vicente Romero Syquia and the two Chinese witnesses made in the expediente as to being single before the Provisorato. Can you tell us when you read those declaration?

A. After this expediente was completed and when about to file it.

Q. What year was it when you read it?

A. The said year 53.

Q. Were those declarations signed?

A. Certainly, according to law.

Q. Were they signed by the witnesses?

A. Yes sir, certainly.

Q. Were they signed in our writing or in Chinese writing?

A. In both, in our writing and in Chinese characters also.

The attorneys for both parties state that they have terminated with this witness.

After the witness himself had read his declaration and after being advised by the Judge that he could correct it in any particular, he stated that he was satisfied with it and signed it.

560

(Sgd.)

RAMON GRAY.

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos Sur, P. I., certify that the aforesaid is the deposition given before me this 23 day of July, 1906, by the witness Roman Gray, who, before being seated to testify was sworn in proper form to tell the truth, and after having carefully read his declaration himself and being informed of his right to correct it in any particular if he desired, signed it having found it to be correct. I further certify that this declaration was written in my presence and under my direction by D. Ramon Crisologo, a disinterested person, and that the same is a faithful expression of the declaration made by the witness. In testimony whereof I sign and affix my official seal in Vigan the day, month and year aforesaid.

For the signature.

(Sgd.)

ELIAS P. ABAYA,  
*Justice of the Peace, Vigan.*

20 cent documentary stamp cancelled by the impression of the seal of the Justice of the Peace Court of Vigan.

The next act and on the same date, 23rd of July, 1906, the Sres. Legaspi and Sanz presented the witness DA. ESTEFANIA CRISOLOGO to whom the Judge administered the oath to tell the truth, the whole truth and nothing but the truth in all that she was asked, who



solemnly offered to do so in proper form under the oath taken according to law, declaring in the following manner:

Direct examination by Sr. SANZ:

Q. What is your name?

A. Estefania Crisologo.

Q. Where do you live?

A. In Vigan.

561 Q. What is your occupation?

A. I am dedicated to the labors in the house.

Q. Are you single or a widow?

A. Widow.

Q. How old are you?

A. More than seventy years and nearly seventy-one.

Q. Did you know D. Vicente Romero Syquia?

A. Yes, I knew him.

Q. In what year did you know him for the first time and why?

A. I knew him because in those days we got cloths from them to sell on commission.

Q. Who are "them" that you refer to and from whom did you get cloths to sell on commission?

A. Them; the Chinese, because there were many who lived in the same house.

Q. Among those Chinese was Sy Quia?

A. Yes sir.

Q. In what year did you know him for the first time more or less?

A. About the year 1848 when he was in Vigan.

Q. What was the civil statue and the age of D. Vicente Romero Sy Quia when you knew him for the first time?

A. He was single and appeared to be about twenty-six years or twenty seven years old, more or less.

Q. How do you know that he was single?

A. Because that is what his Chinese companions who lived with him said.

Q. The attorney Sr. Bishop for the plaintiffs asks that this answer be not considered because it is hearsay.

Q. Do you know whether D. Vicente Romero Sy Quia ever married?

A. Yes, I know that he married.

562 Q. When and with whom did he get married?

A. In the year 1853 and with Da. Petronila Encarnacion.

Q. How do you know that D. Vicente Romero Sy Quia married Petronila Encarnacion?

A. Yes, I know because Da. Petronila is my husband's cousin.

Q. Did you know Da. Petronila Encarnacion?

A. Yes sir.

Q. Did you visit her frequently after being married?

A. Yes.

Q. Where did D. Vicente Romero Sy Quia reside during the time

that intervened between the date that you knew him for the first time and that when he got married to Da. Petronila Encarnacion?

A. He first lived in the house of D. Paulino Lavin and later in the house now occupied by D. Benita Encarnacion and there he got married.

Q. Where are those house-, in what town?

A. In the town of Vigan.

Q. What occupation or position did D. Vicente Romero Sy Quia have when you knew him for the first time?

A. They came to sell cloths here from whom we the mestizos purchased.

Q. Did he have a store opened?

A. He did not, he lived in the upper part.

Q. At that time was Mr. Sy Quia rich or poor?

A. The plaintiff asks that this question be not considered as it is incompetent, immaterial and irrelevant.

The witness answers:

A. He was an agent, at that time, of his uncle named D. Jose Gloria Lecaros.

Q. And when he married Da. Petronila Encarnacion, what was he—Mr. Sy Quia?

A. I don't know; but I know that he continued being an agent as when I knew him for the first time.

Q. Where did Mr. Sy Quia and Da. Petronila Encarnacion live after they were married?

A. Here in Vigan.

Q. Did they continue to live here in Vigan for a long time after they were married?

A. Two or three years after they were married they went to Manila.

Q. Did they come back to Vigan again after they went to Manila?

A. D. Vicente only came to Vigan twice after he transferred his residence to Manila and he came as a visitor.

Q. And did Da. Petronila Encarnacion return to Vigan after having gone to Manila?

A. She came to Vigan to be confined and after two months or so went away again.

Q. Do you know whether Da. Petronila Encarnacion had any money before she got married to Mr. Sy Quia?

The plaintiff objects to the question as being incompetent, irrelevant and immaterial.

Mr. Sanz makes it appear that one of the defenses set out in the answer refers precisely to this question.

The witness answers:

A. Her mother gave her money when they went to Manila.

Q. Do you know how much she gave?

A. Some five thousand pesos.

Q. How do you know that?

A. We know because they told us.

Q. The plaintiffs ask that the answer be not considered because it is incompetent and hearsay.

Q. Who told you that?

564 A. Her mother Da. Bittang told me and also Sy Quia because he frequented our houses because they were our friends.

Q. The plaintiff asks that the answer be not considered for the same reason.

Mr. Sanz makes it appear that the hearsay of the witness comes from the same Sy Quia from whom the plaintiffs pretend to inherit.

Mr. SANZ: That is all.

Direct examination by Mr. LEGASPI:

Q. Do you know how many children Sy Quia had by Da. Petronila Encarnacion?

A. Yes.

Q. State their names?

A. Apolinaria, Maria, Goyo, Pedro and Juan.

Q. How do you know that these individuals are children of Vicente Romero Sy Quia by Da. Petronila Encarnacion?

A. I know, because I went to visit them after D. Petronila gave birth to some of her children.

Q. Where did the children of Mr. Sy Quia by Da. Petronila Encarnacion live?

A. After the birth they were taken to Manila.

Q. Do you know whether these children lived constantly under the paternal care of their parents?

A. The plaintiff objects as calling for an opinion and the conclusion of the witness.

The witness answers:

A. Yes, I know that they lived under the paternal care of their parents.

Q. Since you knew the children of the persons Sy Quia and Encarnacion who maintained them?

The plaintiff objects for the reason that—

565 The plaintiff for the reason that the question is suggestive objects to it.

The witness answers:

A. Their parents.

Q. Do you know the civil status of the children of the persons Sy Quia and Encarnacion?

A. All are married except the eldest named Apolinaria.

Q. When they were children who maintained them?

The plaintiff objects because it asks for the opinion and conclusion of the witness.

The witness answers:

A. Their parents.

Q. Those that are married who ordered them to marry?

A. Their parents.

Q. It is objected to by the plaintiff because it refers to a matter which is clearly not within the knowledge of the witness.

Q. Do you know whether all the children of the spouses Sy Quia and Encarnacion are living?

A. The two women have already died; only the three men are living.

Q. Where were the two women who died buried?

A. When Maria died of Cholera in the year 1882 she was buried here, and Apolinaria in Manila.

Q. What was the civil status of Maria when she died?

A. She was married to Eustaquio Mendoza.

Q. Had she any children before she died?

A. She had one.

Q. What is that one called?

A. Generoso.

Mr. LEGARPI: That is all.

Cross-examination by Mr. BISHOP:

566 Q. Vicente Romero Sy Quia was about twenty-seven years old when he came to Vigan, is that not so?

A. Yes, as I have already stated.

Q. How long did he live in Vigan before he got married?

A. Some five years, more or less.

Q. About how old was Vicente Romero Sy Quia when he got married?

A. Some thirty years, more or less.

Q. Mr. Vicente Romero Sy Quia dressed as a Chinaman and used a queue?

A. Yes sir, he dressed as a Chinaman and wore a queue.

Q. When Sr. Sy Quia came to Vigan for the first time he was engaged in selling merchandise, is that not so?

A. Yes sir, he sold them.

Q. Mr. BISHOP: That is all.

After having read this declaration to the witness by means of the interpreter D. Simeon Ramos, under the inspection of the presiding Judge who also knows Ilocano the contents was ratified, she stated that there was nothing to correct and signed it.

(Sgd.)

ESTEPANIA CRISOLOGO.

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan Province of Ilocos Sur, P. I., certify that the foregoing is the declaration given before me this 23rd day of July, 1906, by the witness Da. Estefania Crisologo, who first took the proper oath to tell the truth, and after the said declaration was carefully read by the interpreter, D. Simeon Ramos, under the immediate inspection of the undersigned and informed of her right to correct it in any

particular if she desired, she signed the same because she found it correct; I further certify that I know the Ilocano dialect and that the said declaration was written in my presence and under my careful inspection by D. Luis Encarnacion, a disinterested person: I also certify that that written is a faithful expression of the statements made by the witnesses in her deposition. In testimony whereof I sign and affix my official seal in Vigan the day, month and year aforesaid.

For the signature:

(Sgd.)

ELIAS P. ABAYA,  
*Justice of the Peace, Vigan.*

20 cent Documentary stamp cancelled by the impression of the seal of the Justice of the Peace of Vigan.

It being six o'clock in the evening these proceedings of the depositions of witnesses was suspended until to morrow, the 24th of July, 1906, at nine o'clock in the morning, by mutual agreement between the Court and the attorneys for the parties.

Today, the 24th of July, 1906, it being nine o'clock in the morning and the attorneys for the parties having returned to meet in this Court of the Peace of Vigan, the Sres. Legaspi and Sanz presented the witness ALEJANDRA SINGSON, to whom the Judge who subscribes administered the oath to tell the truth, the whole truth and nothing but the truth in all that may be asked, which she solemnly offered to do under the oath taken, declaring in the following manner:

Direct examination by Mr. SANZ:

Q. What is your name?

A. Alejandra Singson.

Q. What is your domicile?

A. Vigan.

Q. What is your occupation?

A. Merchant.

Q. How old are you?

A. Seventy-three years old.

508 Q. What is your civil status?

A. Widow.

Q. Did you know D. Vicente Romero Sy Quia?

A. Yes sir.

Q. In what year did you first know him and why?

A. I don't remember in what year I knew him for the first time and I knew him because we got some effect from him to sell and because he was an agent of Jose Gloria.

Q. When you knew him for the first time was he married or single?

A. He was single.

Q. What was the race of Don Vicente Syquia?

A. He was a Chinaman.

Q. How do you know that the Chinaman Vicente Romero Syquia was single when you knew him for the first time?

A. Because it was so said that he was not married and also because Jose Gloria, who was his principal, said so when he came to Vigan.

The plaintiff asks that the answer be not considered because it is hearsay.

Q. Of what race was that Jose Gloria to whom you refer?

A. He also was a Chinaman.

Q. Do you know whether D. Vicente Romero Syquia later changed his civil status?

A. Yes sir, I know that he changed his civil status.

Q. Did he contract marriage with any person here?

A. Yes sir.

Q. When, where and with whom did he contract marriage?

A. About the year 52 or 53, here in Vigan and with Do. Petronila Encarnacion.

Q. How do you know all this?

A. I know because we were neighbors.

589 Q. Did you know Do. Petronila Encarnacion?

A. Yes sir.

Q. How long before her marriage with Mr. Sy Quia did you know the said Sy Quia?

A. Some seven years.

Q. Before the marriage of D. Vicente Romero Syquia with Do. Petronila Encarnacion what was the conception of him in relation to his status?

The plaintiff objects as incompetent and calling for hearsay evidence.

The witness answers: That he was single.

Q. Where did D. Vicente Romero Syquia reside during the time that intervened between the date that you first knew him until he got married to Do. Petronila Encarnacion?

A. He lived in the house of Lavin and Do. Benita Encarnacion here in Vigan.

Q. Were you present at the wedding between D. Vicente Romero Syquia and Do. Petronila Encarnacion, or did you learn from any other source that this marriage was really contracted by both?

The plaintiff objects to the last part of the question because it calls for hearsay testimony which is not the best evidence.

The witness answers: It is known to me because my brother accompanied the consorts on the wedding day.

The plaintiff asks that the answer be not considered because it is hearsay and is not the best evidence.

Q. Who was this brother of yours?

A. Mateo Singon who has already died.

Q. Mr. Sanoz: That is all.

370 Direct examination by Mr. Licaspi:

Q. What kind of business did D. Vicente Romero Syquia have when you knew him for the first time?

A. He was an agent who received a salary of two hundred pesos a year.

Q. Had he a permanent establishment or was he a peddler?

A. He did not have a store.

Q. How did you find out that he, Sr. Syquia was an employee of one Jose Gloria?

A. Because that is what Jose Gloria told us when he came here.

Q. The plaintiff asks that the answer be not considered because it is hearsay.

Q. Do you know who of those spouses brought capital to that marriage?

A. The plaintiff objects as incompetent, irrelevant and immaterial.

Q. The witness answers. We were told that her mother Da. Bitang gave her daughter Patronila the sum of 5000 pesos when she went to Manila.

The plaintiff asks that the question be not considered as being hearsay.

Q. Do you know whether Mr. Syquia had any children during his marriage with Da. Patronila Encarnacion?

A. Yes sir.

Q. State who they are?

A. Ayang, Maria, Goyo, Pedro, Juan.

Q. Where are these children of the spouses Syquia and Encarnacion now?

A. Goyo is here in Vigan, Juan and Pedro are in Manila, Ayang and Maria are dead.

Q. Do you know what was the civil status of Maria before she died?

A. She was married.

Q. With whom was she married?

A. She married Mandaza.

Q. Do you know whether there were any children in that marriage of Maria with Mandaza?

A. Yes sir.

Q. Who?

A. Genareso.

Mr. Licaspi: That is all.

Cross-examination by Mr. Bisner:

Q. Was anything said among the people of Vigan as to whether D. Vicente Romero Syquia had any wife in China?

The attorneys for the defendants object to the question because it calls for an answer by the witness of hearsay.



The witness answers. No sir.

Mr. BISHOP: The question refers to how the people of Vigan discussed Mr. Syquia, whether he was married or single.

A. Yes sir, because in our conversations Sy Quia stated that he was not married in China.

Q. Did Syquia tell you personally that he was not married?

A. Yes sir, because we frequented his place.

Q. About how old was Syquia when he came to Vigan for the first time?

A. More than twenty years old according to appearance.

Q. About how long was he in Vigan before he got married?

A. Some five or six years.

Q. About how old was Syquia when he got married?

A. I don't know.

Q. How long did he live in Vigan after he got married?

A. Some two years, more or less.

Q. Mr. BISHOP: That is all.

572 Redirect examination by Mr. SANZ:

Q. Your sister Matea Singson was a relative of Da. Petronila Encarnacion?

A. Yes sir.

Q. What relation was there?

A. They were cousins.

Mr. SANZ: That is all.

(Sgd.)

ALEJANDRA SINGSON.

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos, Sur, P. I. Certify that the aforesaid is the declaration made before me the 24 day of July, 1906, by the witness Sra. Alejandra Singson, who first took the proper oath to tell the truth and after said declaration was carefully read by the interpreter Don Simeon Ramos, under the immediate inspection of the undersigned and she being informed of her right to correct it in any particular if she desired, she signed it having found it correct; I further certify that I know the Ilocano dialect and that this declaration was written in my presence and under my careful inspection by D. Ramos Crisologo a disinter-ed person; I also certify that that written is a faithful expression of the statements made by the witness in her deposition in testimony whereof I sign and affix my official seal in Vigan the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,

*Justice of the Peace, Vigan.*

20 cent Documentary Stamp cancelled by the impression of the Justice of the Peace Court seal.

573 The attorneys for the parties agree and stipulate to receive in these proceedings the depositions of the witnesses for the defendants named Bonifacio Brillantes, Benita Encarnacion, and Estanislao Reyes, even though special mention was not

made of the taking of their depositions, to which end the attorney for the plaintiff accepts as cited in proper form and time, signing in this place with the attorneys for the defendants, in sign that it the said agreement is solemnly stipulated in Vigan the 24th of July, 1906.

(Sgd.)

BISHOP & O'BRIEN.

(Sgd.)

ROSADO, SANZ & OPISSO.

(Sgd.)

ANTONIO SANZ.

M. LEGASPI FLORENDO.

The next act and on the same date, the 24th of July, 1906, the Sres. Legaspi and Sanz presented the witness Don ESTANISLAO REYES, to whom the presiding Judge administered the oath to tell the truth, the whole truth and nothing but the truth in all that he was asked, which he offered to do solemnly and in proper form under the oath taken in accordance with law, declaring in Spanish in the following manner:

Q. What is your name?

A. I am named Estanislao Reyes.

Q. Where do you live?

A. In Vigan.

Q. What is your profession?

A. At present Municipal President of Vigan.

Q. What is your civil status?

A. Married of thirty nine years of age.

Q. Where were you during the revolution of 1898?

A. I was in Vigan as Captain Adjutant and jefe de la escolta of General Tinio. (Chief of the guard of General Tinio)

Q. During the time of Spanish sovereignty do you know whether the ecclesiastic provisorato of the Diocesis of Vigan had any archive?

574 A. Yes sir, under the palace where the revolutionists were quartered.

Q. Whose palace was this during the Spanish sovereignty?

A. The Bishop's.

Q. What was done with the archive of that provisorato?

A. All the papers that were found were burned in the plaza.

Q. How do you know that?

A. Because I was then the chief of the guard which was quartered there and by order of the general I ordered all the papers and books of the archive burned.

Q. Were you present at the burning of those papers?

A. Yes sir. (E. Abaya.)

Q. MESSRS. SANZ and LEGASPI: That is all.

Cross-examination by Mr. BISHOP:

Q. Why did you burn those records?

A. In order to clean the establishment.

Q. By whose order did you burn those archives?

A. By order of the general.

Q. What general?

A. General Tinio.

Q. Did you take into consideration that those papers might have some value?

A. I suppose so because the filing case in which they were was marked archive.

Q. What was your object in burning those papers?

A. They obstructed the salon because they were large filing cases.

Q. Why did you want to take out those papers did you want to use the building?

A. Yes sir, we used it as headquarters of the General quarters.

575 Q. During what part of the revolution was you in Vigan?

A. All the time that the General was here and later we were called to Tarlac to protect the force of the President Aguinaldo which headquarters were left under the command of General Natividad.

Q. It is not a fact that during the greater part of the time of the revolution you were outside of Vigan?

A. I don't think so, sir.

Q. Were you in Vigan after the American troops arrived?

A. I was then in Tagundin enroute to this place.

Q. Is it not a fact that when the American troops entered Vigan you were outside and remained outside?

A. Yes sir.

Mr. BISHOP: That is all.

After the witness himself had read this declaration and was advised by the Judge that he might correct it in any particular if he desired, stated that he was satisfied with it and signed it.

(Sgd.)

ESTANISLAO REYES.

I, Elias P. Abaya, Justice of the Peace of Vigan Province of Ilocos Sur, Philippine Islands, certify that the aforesaid is the deposition given before me the 24th day of July, 1906 by the witness Don Estanislao Reyes, who before being seated to testify took the proper oath to tell the truth and after carefully reading his statement himself and being informed of his right to correct it in any particular if he desired, signed the same because he found it correct. I further certify that the declaration was written in my presence and under my direction by Don Ramon Crisologo, a disinterested person, and that the same is a faithful expression of the statements made by the witness. In testimony whereof I sign and affix my official seal in Vigan, the day, month and year aforesaid.

576 (Sgd.)

ELIAS P. ABAYA.  
Justice of the Peace, Vigan.

20 cent documentary stamp cancelled by the impression of the Justice of the Peace Court seal being placed on it.

It being twelve o'clock noon this proceeding was suspended by mutual agreement of the parties to be continued at three o'clock sharp in the afternoon.

The attorneys having returned to meet in this Court of the Peace at three o'clock in the afternoon of the same date, 24th of July, 1906, the Sres. Legaspi and Sanz presented the witness Father BONIFACIO BRILLANTES, who took the oath before the presiding Judge to tell the truth, the whole truth and nothing but the truth in all that he was asked, which he solemnly offered to do in virtue of the oath taken, declaring in Spanish in the following manner:

Direct examination by the Sres. LEGASPI and SANZ:

Q. Tell me your name, residence and profession?

A. Bonifacio Brillantes, domiciled in this City of Vigan, Parish Priest of the said City.

Q. Showing this document which we asked be marked Exhibit No. 2 for the defendants tell us what it is.

A. It is a certificate of marriage which I issued to D. v.

(The plaintiff objects to the witness testifying to the contents of the paper.)

The witness continues. It is a certificate of marriage issued by me of Don Vicente Romero Syquia with Da. Petronila Encarnacion.

Q. Examine the signature which appears at the end of this document and tell me whose it is.

A. It is my signature.

577 Q. Where is the original from which you got this certification?

A. In the canonical books which are in my care.

Q. Was this certified copy carefully compared by you with the original?

A. Yes sir.

Q. To whom does the original of this document which you have in your hands belong (referring to Exhibit 2)?

A. To the Apostolic Roman Catholic Church.

Q. Could you give us the original of this document?

A. Without permission of my superiors it is not possible, sir.

Q. Does this document form part of any archive?

A. Yes, sir.

Q. Please examine these documents which I ask to have marked Exhibits 3, 4, 5, 6, and 7 of the defendants and tell me what they are?

A. Exhibit 3 is the entry of baptism of Apolinaria Romero Sy Quia, Exhibit 4 also the entry of baptism of Maria Romero Sy Quia, Exhibit 5 the entry of the baptism of Gregorio Romero Sy Quia, Exhibit 6 the entry of the baptism of Pedro Antonio Sy Quia and the Exhibit 7 is also the entry of the baptism of Juan Nepomuceno Romero Sy Quian.

Q. Please examine the signatures which appear in those documents and tell me who it is that signs them.

A. All are my signatures.

Q. The documents are originals or certified copies of the originals?

A. They are copies.

Q. Where are the originals of these documents Exhibits 3, 4, 5, 6, and 7?

A. They are in the archives of my parish.

578 Q. Tell me, father, what seals are these which appear on these documents?

A. They are the seals of my parish.

Q. Have you carefully compared these certified copies with their respective originals?

A. The plaintiff objects because it is incompetent and immaterial.

The witness answers, Yes sir, I compared all the documents which you have shown me.

Q. To whom does the originals of these documents Exhibits 3, 4, 5, 6, and 7 belong?

A. They belong to the Apostolic Roman Catholic Church.

Q. The plaintiff objects with respect to the Exhibits Nos. 2, 3, 4, 5, 6, and 7 because they are incompetent and immaterial as well as not properly identified and are not the best evidence.

The attorneys for the defendants state that they will offer said documents as proof on the day of the trial before the Court of First Instance of Manila.

Cross-examination by Mr. Bishop:

Q. How long have you had charge of the archive of the Church?

A. A year and a half of this part.

Q. You are in charge of the archives under what superior?

A. Under the Sr. Bishop.

Q. Is it not a fact that during the time of the revolution one of the commandants, Mr. Reyes, who is now President of Vigan burned the archives of the Church in the street?

A. Not to my knowledge.

Q. The archives of the Church were not burned during the time of the revolution, is that not so?

A. No, no archive was burned.

579 Mr. BISHOP: That is all.

Redirect examination by the Sres. LEGASPI and SANZ:

Q. How many ecclesiastic archives are there in Vigan?

A. There is only one.

Q. Is there an ecclesiastic archive or not in the palace of the Bishop?

A. Yes sir, there is.

Q. Is the archive of the parish united with the archive of the provisorato here in Vigan?

A. No sir.

Q. Who is in charge of the archive of the provisorato?

A. The said provisor is in charge.

Q. Are the positions of provisor and parish priest distinct positions in Vigan?

A. Yes sir, they are distinct.

Q. Then how many ecclesiastic archives are there in Vigan?

A. The archive of the palace and the archive of the parish.

Q. Then why did you say that there was but one archive in Vigan?

A. I supposed that you were only speaking of the parish of Vigan.

Q. The attorneys for both parties stated that they had finished with this witness.

(Sgd.)

BONIFACIO BRILLANTES.

After the witness himself had read his declaration and was advised by the Judge that he could correct it in any particular if he desired, he stated that he was satisfied with it and signed it.

1. Elias P. Abaya, Justice of the Peace of the Municipality of Vigan of the Province of Ilocos Sur, P. I., certify that the  
580 aforesaid is the deposition given before me the 24th day of July, 1906 by the witness Father Bonifacio Brillantes, who before being seated to testify took the proper oath to tell the truth, and after having carefully read his said declaration himself and being informed of his right to correct it in any particular if he desired to do so, he signed it because he found it correct. I further certify that this declaration was written in my presence and under my direction by D. Ramon Crislogo, a disinterested person, and that the same is a faithful expression of the statement made by the witness. In testimony whereof I sign and affix my official seal the day, month and year, aforesaid.

(Sgd.)

ELIAS P. ABAYA.

*Justice of the Peace, Vigan.*

20 cent Documentary stamp cancelled by the impression of the seal of the Justice of the Peace Court.

The next act and on the same date, 24th of July, 1906, the Sres. Legaspi and Sanz presented the witness Da. BENITA ENCARNACION, to whom the presiding Judge administered the oath to tell the truth, the whole truth and nothing but the truth in all that she was asked, which she solemnly offered to do in proper form under the oath taken according to law, testifying in the following manner:

Direct examination by Sres. LEGASPI and SANZ:

Q. What is your name?

A. Benita Encarnacion.

Q. Your civil status?

A. Widow.

Q. Domicile?

A. Vigan.

Q. Age?

581 A. Sixty-two years old.

Q. Profession?

A. Merchant.

Q. Did you know Da. Petronila Encarnacion?

A. Yes sir, I knew her, she being my sister.

Q. Where is your sister now?

A. She died in Manila.

Q. What was her civil status before she died?

A. Widow.

Q. Whose widow?

A. Widow of the Chinaman called Vicente Romero Syquia.

Q. Do you know whether Da. Petronila Encarnacion had any children by Vicente Romero Syquia?

A. Yes sir.

Q. State their names.

A. Apolinaria; Maria, Gregorio, Pedro Juan.

Q. Where are those children of the spouses Syquia and Encarnacion?

A. The two women are dead and the remainder are in Manila.

Q. Where did Maria die?

A. Here in Vigan.

Q. What was her civil status when she died?

A. Married.

Q. With whom was she married?

A. With one from Manila called Eustaquio Mendoza.

Q. Do you know whether Maria during her marriage with Eustaquio Mendoza had any children?

A. Yes sir, she had a child who is named Generoso Mendoza.

Q. How old were you when your sister Petronila married?

A. I was about ten years old, more or less.

Q. Do you know that your sister got married to the Chinaman Syquia?

582 A. Yes sir.

Q. How do you know that your sister Petronila Encarnacion got married to the Chinaman Syquia?

A. I know because she was my sister and I lived with her.

Q. Since when did you live with her?

A. Since I was born we lived together.

Q. Did you know the Chinaman Syquia before he married your sister?

A. I knew him with the knowledge of a child because he frequented our house.

Q. Do you remember of your own knowledge what social position Syquia had then?

A. The regular life of a Chinaman.

Q. What was his occupation or position then?

A. He sold skiens of cotton.

Sres. LEGASPI and SANZ: That is all.



Cross-examination by Mr. BISHOP:

Q. About how old was Vicente when he married your sister?

A. I don't know.

Q. How long did she live in Vigan after he married your sister?

A. Not long because Syquia's uncle died in Manila and he went there.

Q. How long did Syquia live in Vigan before he got married to your sister?

A. I don't know because I was then but a child.

Q. Mr. BISHOP: That is all.

After this declaration was read to the witness by the interpreter under the inspection of the presiding Judge who also knows Ilocan, the witness ratified the contents thereof stating  
583 that she had nothing to correct therein and signed it.

(Sgd.)

BENITA ENCARNACION.

Rubricated.

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos Sur, P. I., Certify that the aforesaid is the declaration given before me the 24th day of July, 1906, by the witness Da. Benita Encarnacion, who first took an oath to tell the truth and after the interpreter, D. Simeon Ramos, carefully read the said declaration to the witness, under the immediate inspection of the undersigned and she being informed of her right to correct it in any particular if she so desired, she signed it having found it correct. I further certify that I know the Ilocan dialect and that this declaration was written by D. Ramon Crisolo, a *disinterested* person, in my presence and under my careful inspection; I also certify that that written is a faithful expression of the statements made by the witness in her deposition. In testimony whereof I sign and affix my official seal in Vigan the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,  
*Justice of the Peace, Vigan.*

20 cent Documentary Stamp cancelled by the impression of the Seal of the Justice of the Peace Court.

The next act and on the same date, 24th of July, 1906, the Sres. Legaspi and Sanz presented the witness Father MELANIO LAZO to whom the presiding Judge administered the oath to tell the truth, the whole truth and nothing but the truth in all that he was asked, which he solemnly offered to do in proper form in virtue of the oath taken according to law testifying in Spanish in the following manner:

584 Direct examination by the Sres. LEGASPI and SANZ:

Q. State your name, residence and occupation?

A. My name is Melanio Lazo, domiciled in San Vicente and parish Priest of said town.

Q. To what religion do you belong, Father?

A. The witness refuses to answer the question.

Q. Please examine this document which I asked to be marked Exhibit No. 1 for the defendants and tell me what it is.

A. It is a true copy of the entry of the baptism, the original of which is in my custody.

Q. In what capacity do you keep the original of this document?

A. In the capacity of Parish Priest I am the custodian of this document.

Q. Does the original of this document form a part of any archive?

A. Yes sir.

Q. Whose archive?

A. Of the Catholic Church of San Vicente.

Q. Of whom is this entry of baptism?

A. The plaintiff objects to this question for the reason that it is not competent and is not the best evidence.

The witness answers: Of an adult of Chinese nationality called Vicente Ruperto Romero.

Q. Have you seen the original of this document?

A. Yes sir.

Q. And it says exactly the same as stated here?

The plaintiff objects to this question as being incompetent and immaterial and is not the best evidence.

The witness answers: Yes sir.

535 Q. Whose signature is this which appears in this document No. 1 of the defendants which you have in your hands?

A. The signature is my own.

Q. Could you give us the original of which this document signed by you is a copy?

A. It is forbidden by the discipline of the Church.

Q. In view of the prohibition by the ecclesiastical discipline what is the custom followed by the Parish Priests in these cases as to the exhibition of the originals?

A. The plaintiff objects as incompetent and as presuming that the discipline of the Church is more efficient than the rights of litigants under the law.

A. The witness answers: It is customary to issue true copies of the original, signing and sealing it with the parish seal whenever solicited by the interested parties.

Q. Did you do that in the document referred to?

The plaintiff objects as incompetent and immaterial.

A. The witness answers: Yes sir.

Q. Tell me, Father, what seals are those which appear in the document Exhibit No. 1?

A. It is the seal of the parish of San Vicente.

The plaintiff objects to the document in regard to what the wit-

ness has testified about the same and to the declarations of the witnesses in these documents for the reason that the same is immaterial and incompetent and because the document is not properly identified, and is not the best evidence.

Mr. SANZ: We will present it as evidence in the trial of the case.

Cross-examination by Mr. Bishop:

Q. What religious belief have you?

A. There is no necessity to state specifically because it is comprehended from my declaration to what religion I belong.

Q. I want to know what relation you have, if you have  
586 any with any religious order?

A. Like that which is usually had by a real Catholic.

Q. Then you believe in the teachings and doctrines of the Roman Catholic Church?

A. From my declarations you can deduce what I should answer because I don't care to make useless repetitions.

Q. Then I assume that you belong to that which is known as the Aglipayan Church?

A. I have already stated that my previous answer is sufficient to tell what I am in matters of religion.

Mr. Bishop: That is all.

After the witness had read his declaration himself and after having made some corrections in the orthography only of that written he found it satisfactory and ratified it and signed it.

(Sgd.)

MELANIO LAZO.

I, Elias P. Abaya, Justice of the Peace of Vigan, Province of Ilocos Sur, P. I., certify that the aforesaid is the deposition given before me this 24th day of July, 1906, by the witness, Father Melanio Lazo, who before being seated to testify took the proper oath to tell the truth, and after reading carefully his declaration himself and make some corrections with his own hand only in the orthography in that written he signed it because he found it correct; I further certify that this declaration was written in my presence and under my direction by D. Ramon Crisologo, a disinterested parson, and that the same is a faithful expression of the statement of the witness. In testimony whereof, I sign and affix my official seal in Vigan the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,  
Justice of the Peace, Vigan.

20 cent Documentary Stamp cancelled by the impression  
587 of the seal of the Justice of the Peace Court.

The next act and on the same date, 24th of July, 1906, the Sres. Legaspi and Sanz presented the witness PAULINO REVILLA who after being sworn by the presiding Judge to tell the truth, the whole truth and nothing but the truth in all that may be asked, testified in the following manner:

Direct examination by the Sres. LEGASPI and SANZ:

Q. What is your name.

A. Paulino Revilla.

Q. Where do you live?

A. In San Vicente.

Q. What is your profession?

A. Farmer.

Q. How old are you?

A. Seventy-nine years.

Q. Did you know D. Vicente Romero Sy Quia?

A. Yes sir, I knew him.

Q. When did you know him, where and why?

A. I don't remember when but I knew him in San Vicente because he used to come to the convent of San Vicente whose Curate was my uncle.

Q. What was the nationality and religion of D. Vicente Romero Sy Quia when you knew him for the first time?

A. He was a Chinaman by nationality and religion.

Q. Do you know whether he was naturalized in the Philippines and if he changed his religion?

A. The plaintiff objects as being incompetent, irrelevant and immaterial.

Q. The witness answers: I know that he was baptized, the Clerk Romero being his God-father.

588 Q. How do you know that?

A. I know because I saw it and there were many people at his baptism which was one afternoon, and money was also scattered.

Q. In what year did this occur, do you remember?

A. I don't remember very well but I believe it was in the year 1852, I myself being Gobernadorcillo of San Vicente.

Q. How long before this baptism did you know Mr. Syquia?

A. I don't remember on account of the time that has passed.

Q. About, more or less?

A. I cannot remember it in any manner.

Q. Was it a short or long time before?

A. It was not very long.

Q. And when you say that he went many times to the convent of San Vicente, the Curate being your uncle, was that before or after his baptism?

A. He used to go there before his baptism.

Q. And after his baptism?

A. After his baptism he also used to come.

Q. About how old was Sr. Syquia when you first knew him?

A. He was already an adult.

Q. What was said as to his status when you knew him at that time?

The plaintiff objects as being incompetent and immaterial and as hearsay.

The witness answers:

A. That I know of he was not married when he was baptized.

Sres. LEGASPI and SANZ: That is all.

Mr. BISHOP: I have no cross examination.

After this declaration was read to him by the interpreter D. Simeon Ramos, under the inspection of the presiding Judge who also knows Ilocano, he ratified its contents and stated that he did not care to correct it and signed.

589 (Sgd.)

PAULINO R. GERNO.

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos, Sur, P. I., certify that the aforesaid is the deposition given before me this 24th day of July, 1906, by the witness Paulino Revilla, who first took the proper oath to tell the truth, and after the said declaration was carefully read to him by the interpreter D. Simeon Ramos, under the immediate inspection of the undersigned, and being informed of his right to correct it in any particular if he so desired, he signed it having found it correct; I further certify that I know the Ilocano dialect and that this declaration was written by D. Ramon Crisologo a *disinterested* person in my presence and under my careful inspection, and that written is a faithful expression of the statement of the witness in his deposition. In testimony whereof I sign and affix my official seal in Vigan, the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,  
*Justice of the Peace, Vigan.*

20 cent Documentary stamp cancelled by the impression of the seal of the Justice of the Peace Court.

It being six o'clock in the evening this proceeding was suspended by mutual agreement to be continued tomorrow the 25 of July, 1906, at nine a. m.

To-day, the 25th of July, 1906, the interested attorneys having returned to meet in this Justice of the Peace Court, the Sres. Legaspi and Sanz manifested that two of the witnesses whom they intended to use are unable to come on account of being sick and propose that the Court adjourn to the residence of the same with the object of taking their depositions there. Mr. Bishop being asked if he was agreed to the foregoing proposition of the Sres. Legaspi and Sanz,

390 stated that on his part there was no objection to the Court adjourning to the residence of said witnesses and it was so resolved by mutual agreement, all signing in this place in testimony of the stipulation.

(Sgd.)

(Sgd.)

(Sgd.)

BISHOP & O'BRIEN,

M. ELEGASPI FLORENDO,

ROSADO, SANZ & OPIRNO,

ANTONIO SANZ.

The Justice of the Peace Court established this 25th day of July, 1906, in the house No. 193 Calle Paez, in this town of Vigan, P. I., and the attorneys for the interested parties being present, the Sres. Legaspi and Sanz, Attorneys for the defendants presented the witness Da. JUANA QUEROL to whom the presiding Judge administered the oath in proper form to tell the truth, the whole truth and nothing but the truth in all that may be asked, and having solemnly offered to do so, testified in the following manner:

Direct examination by the Sres. LEGASPI and SANZ:

Q. State your name, residence and occupation?

A. Juana Querol, residing in Vigan, attending to the labors of a house.

Q. Age?

A. I shall complete my 69 years in October.

Q. Civil status?

A. Widow.

Q. Did you know D. Vicente Romero Syquia?

A. Yes sir, I knew him.

Q. Where did you know him?

A. Here in Vigan.

Q. Do you remember when you knew him for the first time?

A. I don't remember.

Q. What was D. Vicente's occupation when you knew him for the first time?

A. I did not know him to have any business.

591 Q. What was his civil status when you knew him?

A. He was single.

Q. Do you know whether Mr. Syquia changed his civil status?

A. I know that he got married here in Vigan.

Q. With whom?

A. With Da. Petronila Encarnacion.

Q. Do you know whether there were any children by this marriage?

A. Yes sir, I know that they had children after the marriage.

Q. Who are the children?

A. There are five called Apolinaria, Maria, Gregorio, Pedro and Juan.

Q. Where are those children now?

A. The two women have died and the others are in Manila.

Q. What was the civil status of Maria when she died?

A. She was married.

Q. With whom did she marry?

A. With Eustaquio Mendoza.

Q. Did they have children?

A. Yes sir, they had one.

Q. What is its name?

A. He is named Generoso.

Q. After Mr. Syquia got married to Da. Petronila Encarnacion what was the business of Mr. Syquia?

A. I don't know that he had any business but I know that he lived with a Chinaman who was in business.

Sres. LEGASPI and SANZ: That is all.

Mr. BISHOP: I have no cross-examination.

After this declaration was carefully read to the witness by the interpreter D. Simeon Ramos under the inspection of the presiding Judge, who also knows Ilocano she ratified the contents and  
592 stated that she had no corrections to make and did not sign not knowing how to do so, the interpreter signing for her at her request, the witness making a mark.

Her

JUANA X QUEROL

mark.

SIMEON RAMOS,

*Interpreter.*

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos Sur, P. I. certify that the aforesaid is the deposition given before me this 25th day of July, 1906, by the witness Da. Juana Querol, who first took the proper oath to tell the truth and after the said deposition was carefully read to her by the interpreter D. Simeon Ramos under the immediate inspection of the undersigned and being informed of her right to correct it in any particular if she so desires stated that it is correct and ratified the contents not signing because she did not know how, the interpreter doing so for her and at her request, the witness making a mark; I further certify that I know Ilocano dialect and the said deposition was written in my presence and under my careful inspection by Mr. Ramon Crisologo, a disinterested person; I also certify that that written is a faithful expression of the statements of the witness in her deposition. In testimony whereof I sign and affix my official seal in Vigan, the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,

*Justice of the Peace, Vigan.*

20 Cent documentary stamp cancelled by the impression of the seal of the Justice of the Peace Court.

The next act and on the same date, the 25th of July, 1906, the presiding Judge and the attorneys for the parties accompanying him went to the house No. 384 Calle McKinley in this town of Vigan, and the Sres. Legaspi and Sanz presented the witness SILVERIA DAMIAN to whom the presiding Judge administered the oath to tell the truth, the whole truth and nothing but  
593



the truth in all that may be asked which she solemnly offered to do in legal form, testifying in the following manner:

Direct examination by the Sres. LEGASPI and SANZ:

Q. State your name, residence and occupation?

A. Silveria Damian residing in Vigan, merchant.

Q. Civil status?

A. Widow.

Q. Age?

A. Seventy-seven years of age.

Q. Did you know D. Vicente Romero Syquia?

A. Yes sir, I knew him.

Q. What year did you know him?

A. When Syquia arrived here I think it was the year 48 more or less.

Q. How did you come to know Mr. Syquia?

A. Because my husband first arrived in Vigan and Syquia stopped in our house here when he arrived in Vigan because my husband and Syquia are countrymen.

Q. What race did Mr. Syquia belong to?

A. Chinaman, as my husband.

Q. What was the civil status of Syquia when you knew him for the first time?

A. Single.

Q. How do you know that?

A. I know because he said he was single.

Q. Do you know whether he later changed his civil status?

A. Yes sir, he married here.

Q. When and with whom did he get married?

A. He married Da. Petronila Encarnacion but I do not remember well when, but I know that he got married, because we, my

594 husband and I, accompanied them on the wedding day.

Q. Were you present at his wedding with Da. Petronila Encarnacion?

A. Yes sir.

Q. Where was the marriage celebrated?

A. Here in Vigan, in the Apostolic Roman Catholic Church because there were no Aglipayans then.

Q. Do you know whether Mr. Syquia was converted to catholicism before his marriage?

A. The plaintiff objects as being incompetent and immaterial.

A. The witness answers. Yes, I know that he was baptized before he got married.

Q. Do you remember more or less the year in which Mr. Syquia was baptized?

A. I don't remember.

Q. Do you know what occupation or profession D. Vicente Romero Syquia had at the time he contracted marriage with Da. Petronila Encarnacion?

A. He was an employee of D. José Gloria of Manila.

Q. How do you know that?

A. I know because he and my husband were employees of the same person who was D. José Gloria.

Q. In what capacity was your husband with respect to his business connected with José Gloria was he an industrial or on salary?

A. Both Vicente Syquia and my husband received an annual salary of two hundred pesos each.

Q. Do you know whether Da. Petronila Encarnacion brought any capital to the marriage with Mr. Vicente Syquia?

A. The plaintiff objects as incompetent and immaterial.

595 A. The witness answers. Yes sir, she brought five thousand pesos which they used as capital when they went to Manila.

Q. From whom did she receive this capital that you refer to in your answer?

The plaintiff makes the same objection.

A. The witness answers. Her mother Da. Ruperta Singson is the one who gave her the capital.

Q. How long after Mr. Syquia and his wife got married before they went to Manila?

A. Not very much time.

Q. Do you know whether the spouses Syquia and Encarnacion had any children after their marriage?

A. Yes, I know.

Q. Who are they?

A. Apolinaria, Maria, Gregorio, Pedro and Juan, five children.

Q. Where are those children now?

A. The two women have died and the other men are living.

Q. Do you know what was the civil status of Maria before she died?

A. Married.

Q. With whom?

A. To one Mendoza.

Q. Do you know whether there were any children had in the marriage of Maria and Mendoza?

A. Yes sir, they had.

Q. Do you know what that child is called?

A. Generoso.

Q. Do you know whether Mr. Syquia had any other effects or property besides the salary that you stated he enjoyed as an employee of D. José Gloria?

596 The plaintiff objects as incompetent and immaterial.

A. The witness answers. I don't know that he had any other outside of his salary.

Sres. LEGASPI and SANZ: That is all.

Cross-examination by Mr. BIRSON:

Q. Were you born in Iloos?

A. Yes, sir.

Q. How long did your husband live in Vigan before you got married?

A. More than five or six years approximately.

Q. How long, more or less, did your husband live in Vigan before Syquia came here?

A. Two years only.

Q. How old, more or less, was your husband when you got married to him?

A. More or less thirty years.

Q. How many years old, more or less, was Vicente Piterenia Syquia when he came to Vigan?

A. He was the same age as my husband.

Q. And when he came to Vigan the first time he lived in your house?

A. Yes, sir.

Q. How long, more or less, had you been married before Mr. Syquia came to Vigan?

A. We were not yet married.

Q. Who got married first, you or Syquia?

A. I.

Q. How much time, more or less, passed after you got married before Syquia got married?

A. Some two years, more or less.

597 Q. How long a time, more or less, did Syquia know Don Piterenia before he got married to her?

A. Some three years, more or less.

Q. About when did Don Jose Gloria die in relation to the departure of Syquia for Manila?

A. The defendants object as not proper cross-examination. The witnesses did not see anything in respect to the death of Jose Gloria.

A. The witness answers: Syquia left for Manila before the death of Don Jose Gloria.

Q. Where did Vicente Syquia live before coming to Vigan?

A. The defendants object as not proper cross-examination.

The witness answers: In Manila.

Mr. BIRSON: That is all.

Red. re-examination by Mr. SANX:

Q. How do you know that the mother of Don Piterenia's declaration gave her five thousand pesos when she went to Manila married to Syquia?

The plaintiff objects as incompetent and immaterial and tends to impeach his witness.

A. Because we lived in a large house which we rented and therefore we saw this sum ourselves.

Q. Who lived in that large house?

A. My husband and I.

Q. And nobody else but you two?

A. Yes.

Q. Then what has your living in a large house have to do with your seeing that the mother of Da. Patronila gave her five thousand pesos.

A. Because even though we lived in different houses we were present to bid them good by when they were about to leave for Manila and on that occasion we saw the delivery of the amount.

MR. NANE: That is all.

508 MR. BISHOP: That is all.

After this declaration was read to the witness by the interpreter D. Simeon Ramos under the inspection of the presiding Judge, who also knows Ilocano she ratified its contents and stated that she had no corrections to make but did not sign it stating that she did not know how, the interpreter doing *da an* for her and at her request, the witness making a mark.

Her

SILVERIA X DAMIAN.

mark.

(Sgd.) SIMEON RAMOS,

*Interpreter.*

I, Elias P. Abaya, Justice of the Peace of the Municipality of Vigan, Province of Ilocos, Sur, P. I., certify that the aforesaid is the deposition given before me this 25th day of July, 1906, by the witness Da. Silveria Damian who first took an oath in legal form to tell the truth and after the said deposition was carefully read to her by the interpreter D. Simeon Ramos, under the immediate inspection of the undersigned, and she being informed of her right to correct it in any particular if she so desired, stated that she was satisfied and that she ratified the contents thereof, not signing because she does not know how, the interpreter doing so at her request, the witness making a mark; I further certify that I know the Ilocano dialect and that the said deposition was written by Mr. Ramon Crisologo a disinterested person in my presence and under my careful inspection; I also certify that that written is a faithful expression of the statement made by the witness in her deposition. In testimony whereof I sign and affix my official seal in Vigan the day, month and year aforesaid.

(Sgd.)

ELIAS P. ABAYA,

*Justice of the Peace, Vigan.*

20 cent Documentary stamp cancelled by the impression of the seal of the Justice of the Peace Court.

500 It being twelve o'clock in the day, the attorneys for the parties and the presiding Justice of the Peace agreed to

suspend these proceedings all being notified to reassemble this afternoon at four o'clock p. m. in the Justice of the Peace Court.

The attorneys for the parties being assembled in the Justice of the Peace Court at four o'clock p. m., the Sres. Legaspi and Sanz stated that they had no more witnesses to present, and therefore the presiding Judge invited them and Mr. Bishop to agree as to the manner of remitting these proceedings to the Court of First Instance of Manila. Mr. Bishop proposed that Mr. Antonio Sanz be appointed special messenger to deliver them to the Clerk of the Court of First Instance of Manila, and this proposition being accepted by the other two attorneys, all signed in this place in sign that it is so stipulated and agreed.

(Sgd.)

ROSADO, SANZ & OPISSO,

(Sgd.)

ANTONIO SANZ,

(Sgd.)

BISHOP & O'BRIEN,

M. LEGASPI FLORENDO.

In virtue thereof I, the presiding Justice of the Peace declare these proceedings terminated and I place them in an envelope closed and sealed and directed to the Clerk of the Court of First Instance of Manila, which I deliver to the special messenger, designated by the interested parties. To all the contents of these proceedings as well as that the different witnesses declared with the proper separation, I the presiding Judge certify in Vigan the 25th of July, 1906.

(Sgd.)

ELIAS P. ABAYA,

*Justice of the Peace, Vigan.*

20 cent Documentary stamp cancelled with the impression of the seal of the Justice of the Peace Court.

Each page of the original bears the stamp of the Justice of the Peace Court of Vigan.

600 EXHIBIT NO. 1, FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.

Don Melanio Lazo Singson Pbro. acting Parish Curate of this town of the suburb of St. Vicente Ferrer, Province of Ilocos Sur, Certify that in the Book No. 7 of baptisms of this parish under my charge, there is to be found on the reverse of page 73 an entry of the following tenor:

Vicente Ruperto Romero.

"On the eleventh day of June one thousand eight hundred and fifty-two; I the P. D. Domingo Ignacio Pesson, Parish Curate of this town of San Vicente solemnly baptized and sprinkled the Sacred Oils in this Church on the Adult Chinaman Vicente Ruperto Romero. D. Juan Francisco, the public Clerk of this province was his Godfather to whom was explained the spiritual relationship

and the other Christian obligations. And that it may appear I sign.—Domingo Peeson."

Conforms to the original from which it was faithfully copied to which I refer. Parish Convent of the said town of the suburb of San Vicente the twelfth of October of the year one thousand nine hundred and four.

[PARISH SEAL.] (Sgd.) MELANIO LAZO SINGSON.

Subscribed and sworn to before me this 12- of Octoberm 1904, in the Justice of the Peace Court of Vigan, Ilocos Sur, Philippine Islands.

(Sgd.)  
[JUSTICE OF THE PEACE SEAL.]

FELIPE MATA,  
*Justice of the Peace.*

EXHIBIT 2 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.

Don Bonifacio Brillantes, Pbro, Parish Curate of this City Fernandina de Vigan, Ilocos Sur, Philippine Islands.

Certify that in the Book No. 14 of Marriages in this 6001½ parish under my charge, there is to be found on page 550 an entry of the following tenor:

"On the ninth of June of the year one thousand eight hundred and fifty-three, preceded by the three publications of the banns as provided by the Sacred Council of Trent, and there being no legitimate impediment disclosed: The P. D. Marcelino Resurreccion, Gowned Sacristan and Coadjutor of this Capital, with my permission, personally assisted at and authorized the marriage in face celestic contracted by D. Vicente Romero Sy Quia single, of no barangay, being a Chinaman by nationality, with Doña Petronila Encarnacion, spinster, noncontributor, daughter of Da. Ruperta Singson, widow, of the barangay of D. Domingo Singson. The said contracting parties personally expressed their mutual consent verbally, and immediately received the nuptial benediction according to the rite of N. S. M. Church, and D. Tomas Singson and Da. Florentina Leon were their witnesses. All of which I the regular Priest signed. Pedro V. Abaya."

(Sgd.) BONIFACIO BRILLANTES.

It is faithfully copied and compared with the original to which I refer. Vigan 20 of July, 1906.

(Sgd.) BONIFACIO BRILLANTES.

There is a 20 cent Documentary stamp. Parish Seal.

**EXHIBIT 3 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.**

**20 cent Documentary Stamp Canceled by Parish Seal.**

Don Bonifacio Brillantes, Pbro. Parish Curate of this City Ferdinandina de Vigan, Ylocos Sur, Philippine Islands:

Certify that in the Book No. 24 of baptisms of this Parish of my charge, there is found on the reverse of p. 382 reversed the 601 entry of the following tenor:

"On the twenty-third of July of the year one thousand eight hundred and fifty-three, the Priest Don Emeterio Arce, Coadjutor of this Capital, with permission of the regular Priest baptized solemnly and sprinkled the Sacred Oils on Apolonaria Romero, a girl three days old, legitimate daughter of Vicente Romero, Chinaman, and of Petronila Encarnacion, of the barangay of D. Tomas Singson: Angela Encarnacion was her God-mother, to whom was explained the spiritual relationship. And that it appear I signed. Pedro V. Abaya."

It is faithfully copied and compared with its original to which I refer. Vigan 20 of July, 1906.

[PARISH SEAL.] (Sgd.) **BONIFACIO BRILLANTES.**

**EXHIBIT 4 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.**

**20 Cent Documentary Stamp Cancelled by Parish Seal.**

Don Bonifacio Brillantes, Pbro. Parish Curate of this City Ferdinandina de Vigan, Ylocos Sur, Philippine Islands:

Certify that on the Book No. 25 of baptisms of this Parish of my charge, there is found on p. 79 the entry of the following tenor:

"On the eleventh of October of the year one thousand eight hundred and fifty-four: The P. D. Roque David, Priest of this Capital, with permission of the Regular Priest, baptized solemnly and sprinkled the Sacred Oils on Maria Romero, a girl of five days, legitimate daughter and of legitimate marriage of Vicente Romero Sy-Quia, Chinaman, and of Petronila Encarnacion, of the barangay of D. Mariano Versosa: D.a Benita Encarnacion was her 602 God-mother, to whom was explained the spiritual relationship. And that it may so appear I signed. Pedro V. Abaya." It is faithfully copied and compared with its original to which I refer. Vigan 20 of July, 1906.

[PARISH SEAL.] (Sgd.) **BONIFACIO BRILLANTES.**



EXHIBIT 5 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.

20 Cent Documentary Stamp Cancelled by the Parish Seal.

Don Bonifacio Brillantes, Pbro. Parish Curate of this City Ferdinandina de Vigan Ylocos Sur, Philippine Islands.

Certify: That in the Book No. 25 of baptisms of this Parish of my charge, there is found on p. 323 reversed, the entry of the following tenor:

"On the seventeenth day of November of the year one thousand eight hundred and fifty-six: the P. D. Pastor Velasquez, Coadjutor of this Capital, with my permission the regular Priest solemnly baptized and sprinkled the Sacred Oils on Gregorio Romero, boy of two days, legitimate son and of legitimate marriage of Vicente Romero Sy Quia, Chinaman, and of D/a Petronila Encarnacion, of the barangay of D. Mariano Versosa: The Presbitero Ber. D. Evaristo Abaya was his God-father, to whom was explained the spiritual relationship. And that it may so appear I signed it. Pedro V. Abaya." It is faithfully copied and compared with its original to which I refer. Vigan 20 of July, 1906.

[PARISH SEAL.] (Sgd.) BONIFACIO BRILLANTES.

603 EXHIBIT 6 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.

20 cent Documentary stamp cancelled by Parish Seal.

Don Bonifacio Brillantes, Pbro. Cura Parroco of this City Ferdinandina de Vigan, Ylocos Sur, Philippine Islands:

Certify that in the Book No. 25 of baptisms of my charge there is found on page 477 reversed the entry of the following tenor:

"On the second of May of the year one thousand eight hundred and fifty-eight: The P. D. Fernando Hilario, Coadjutor of this Capital with my permission the regular Priest, solemnly baptized and sprinkled the Sacred Oils on Pedro Antonio Quia a boy of four days, legitimate son and of legitimate marriage of Vicente Sy-Quia, Chinaman, and of Petronila Encarnacion, of no barangay being a Chinaman: The Presbitero D. Antonio Turingan was his God-father, to whom was explained the spiritual relationship. And that it may so appear I sign it. Pedro V. Abaya".

It is faithfully copied and compared with its original to which I refer. Vigan, 20 of July, 1906.

[PARISH SEAL.] (Sgd.) BONIFACIO BRILLANTES.

EXHIBIT 7 FOR THE DEFENDANTS. (Sgd.) Abaya, Justice of the Peace.

20 cent Documentary stamp cancelled by the seal of the Parish.

Don Bonifacio Brillantes, Pbro. Parish Priest of this City Fernandina de Vigan, Ylocos Sur, Philippine Islands:

Certify that in the book No. 26 of baptisms of this Parish of my charge there is found on p. 115 the following entry:

604 On the seventeenth of May of the year one thousand eight hundred and sixty: The P. D. Eulalio Dario, Coadjutor of this Capital, with my permission, the regular Priest, baptized solemnly and sprinkled the Sacred Oils on Juan Nepomuceno Romero, a child of three days, legitimate son of Vicente Romero Sy-Quia Chinaman, and of Petronila Encarnacion, of the barangay of D. Victorino Yno: D. Teodoro Singson was his God-father, to whom was explained the Spiritual relationship. And that it may so appear, I signed it. Juan Osset".

It is faithfully copied and compared with its original from which it was taken, to which I refer. Vigan, 20 of July, 1906.

[PARISH SEAL.] (Sgd.) BONIFACIO BRILLANTES.

605 *System of Adoption, Chap. 4, Vol. 8, Statutes Tai Ching Dynasty.*

# I.

Anyone who adopted an heir contrary to law shall be punished by flogging in 80 blows.

If a wife is over the age of fifty years and have no son an alder son of the concubine shall become the heir. If the husband does not take the eldest son of the concubine as his heir it shall be contrary to law and must be restified.

If one who has no son and adopts a son of the same surname from parents who have other sons and in case such adopted son shall abandon his adopted parent he shall receive 100 blows and be sent back to his adopted parents for care. If the adopted parent have a son of their own and if the parents of the adopted son have no other son this son may be allowed to go back to his natural parents.

Any one who adopts a son of a different surname thus mixing up his family or clan shall be punished with 60 blows; and if anyone gives his son to a family of different surname as an adopted son he shall be punished the same, and the son sent back to his family; provided if the child is under three years of age he shall be kept and change his own name to that of his adopted parents, but shall not be allowed to follow the line of such ancestors. When anyone who adopts a son, though he may be from the same surname but not in the right line of succession shall receive the same punish-

606      ment and the boy shall be sent back to his own family  
and the parents should select another proper child as an  
adopted son. If a family of common people should keep  
a boy or girl of a good family as a slave he shall be punished with  
100 blows and the boy or girl freed.

## II.

A man who has no son is only allowed to adopt a son of the same surname or clan and, when possible from his brother's children. If there are none then he may take a relative who mourns for nine months or five months, and if there are none of these then he may take from other family or clan, or from the same clan as his own.

After a son has been adopted should a man's wife bear him a son the property shall be distributed equally between the adopted and the son of his wife.

## III.

A wife whose husband has died and left no son as an heir, the elders of her husband's family or clan shall assist in selecting an heir in the foregoing manner to be adopted by her. If, after the death of her husband, she would marry a second time she cannot take any of her first husband's property, not even the furniture. All the property at death must be held in the family.

## IV.

Anyone who has no son may adopt one, provided he should act according to law and if he does so and is dissatisfied he can inform the officials and adopt a good one from the proper line of succession and his clan shall not dispute such right in Court and if anyone who likes his son in law, can keep him in his family and assist each other, the adopted son or his parents shall not be allowed to  
607      contrive to expel/ him from the family and the son in law shall have a right to share part of his property. If the parents of the adopted son are poor they can sell their property for their support.

Anyone who adopts a son of a different surname, and he desires to return to his own family, but is prohibited to bring any property of adopted parents to his own family; provided if the child is under three years of age, he can be kept and have his own name changed to that of his adopted parents, but shall not be allowed to follow the line of such ancestors, and the child shall have a right to share part of his property, but the adopted parents shall not be allowed to expel/ him from the family; if an adopted son try to acquire the property of his adopted parents and tries to perpetrate a fraud he shall be returned to his own family, and according to law shall be punished.

Anyone who has no son may adopt a son. If the adopted son and the adopted parents become dissatisfied with each other before the adoption is complete, he may adopt another son from the proper line of succession, but if his clan attempt to conspire for one to be his adopted son and to acquire his property, such right shall be settled

in the Court of the local official who shall warn them and decide which one shall be the proper one to be selected as the adopted son. If a man's son has died after he was married his wife may still remain in his family; if the son dies after he becomes engaged to a girl and not yet married, the girl can decide not to marry again, if the son died in manhood or not married and if happens that he should die or be killed in war or in the service of the Government, then in those cases his father shall choose a son to be his son's adopted son. If his clan in the right line of succession has no proper son to be adopted as his son and whose father has no other son by this means the father may adopt a son for himself until the father has a grandson then his grandson should be the dead son's adopted son. If among common people the son dies before reaching manhood and is not married, then the father need to adopt another in his place. If one who has only one son and he dies in childhood and in his clan right line of succession, there is no proper son to be adopted by his father, then he shall be allowed to adopt a son for his son who died and was unmarried; if the parents of the son to be adopted have the only the one, and the son and the parents are greatly attached to each other and declare their affection before the clan or family and agree to the adoption then both families are allowed such adopted son and he may be adopted and be a son to both his true parents and his adopted parents.

Anyone who disputes the right of a party to be an adopted son and one of them is killed, those who contrive and dispute such right of the son to be adopted and whose family gave help to them, none of them shall be allowed to be the adopted son, and then a son should be selected by the public clan.

*Distribution, Chap. 14, Vol. 8, Statutes Tai Ching Dynasty.*

609. All clans or families have elders and youngers. The elder is the administrator of the property and if the younger men of members of the family or clan use the property without the knowledge of the elder of the family he shall be flogged 20 blows if he spends 10 Taels, and for each additional 10 taels spent he shall — flogged by an additional 20 blows. If the elder of the family distributes the property unjustly he shall be punished in the same way.

Property shall be distributed equally among the sons of the wife and the concubines. Bastard sons outside the family cannot inherit. Bastard sons shall receive one-half as much as the other sons when brought into the family and when they recognize the wife as their mother. If there are no natural heirs then the adopted sons will inherit. If there are adopted sons and bastard sons in the family they shall share alike.

If a family have no children and no proper adoption then the property goes to the true daughter, and there being no daughter then the property goes to the local official of the Chinese Government to be held as the property of the Government.

*Wife and Concubine, Chap. 3, Vol. 10.*

If a man who has a wife and a concubine makes his wife his his concubine and his concubine his wife he shall be punished with 100 blows.

If a man separated from his wife taken a concubine as his wife while the first wife is living he shall be flogged 90 blows and the second wife shall be treated thereafter as a concubine.

If a man having a wife marries another he shall be flogged 90 blows and the second wife must return to her parents.

UNITED STATES OF AMERICA,

*Philippine Islands, City of Manila, ss:*

Personally came and appeared before me the undersigned authority, a Notary Public in and for the City of Manila, Philippine Islands, Chow Chan, who, after first being sworn according to law, on oath, deposes and says: That he is a native of Honolulu, of the Hawaiian Islands, of Chinese Parentage, on both sides, that is to say, father and mother; that he is familiar with, understands, reads and writes the Chinese Characters and the Chinese Language in general and in detail and particular with regard and respect to the above and foregoing; that the above and foregoing—consisting of five pages—is a true, proper, correct and literal translation, as near as is possible, of the laws and statutes therein referred to and translated in item and pertaining to the System of Adoption under the Statutes of the Tay Ching Dynasty; that he, the deponent has exercised due and extreme care in such translation and to the best of his ability and as is proper in the premises.

Further deponent sayeth not:

(Sgd.)

CHOW CHAN.

Subscribed and sworn to before me this 10th, day of May, A. D., 1907, in the City of Manila, by deponent, he exhibiting to me his Personal Cedula No. α-0888, issued at the City of Manila, Philippine Islands, on the 4th. day of January, 1907, such cedula giving deponent's age as 23 years, occupation clerk, and residing at 80 Calle San Jacinto, City of Manila, Philippine Islands.

[NOTARAL DRY SEAL.]

(Sgd.)

W. H. BISHOP,

*Notary Public.*

My commission expires December 31st, 1908.

(20c. Documentary Stamp Internal Revenue.)

I hereby certify that I have examined the foregoing translation and find the same substantially correct.

[CONSULAR DRY SEAL.]

(Sgd.)

SU YU-TCHU,

*Consul General of China in and  
for the Philippine Islands.*

May 11, 1907.

611

*Affidavit.*

UNITED STATES OF AMERICA,

*Philippine Islands, City of Manila, ss:*

Personally came and appeared before me, the undersigned authority, a Notary Public in and for the City of Manila, Philippine Islands, Chow Chan, who, after first being sworn according to law, on oath, deposes and says;

That the foregoing and annexed six pages upon which appear written thereon Chinese Characters, are true, proper and correct copies as made and taken by deponent from the Statutes of the Tai Ching Dynasty, and as pertain and relate in detail and item to the System of Adoption, Chapter 4, Vol. 8. Distribution, Chapter 14, if the same volume, that is to say, Vol. 8, and Wife and Concubine, Chapter 3, Volume 10, of said Statutes of the said Tai Ching Dynasty, as aforesaid;

That deponent is of Chinese Parentage, both on the side of mother and father, is of the age of 23 years, occupation clerk, and a resident of and domiciled in the City of Manila, Philippine Islands, that he is familiar with, understands, reads and writes, in detail and in particular, the Chinese Characters hereinbefore referred to.

(Sgd.)

CHOW CHAN.

Subscribed and sworn to before me at the City of Manila, Philippine Islands, on this 10th. day of May, 1907, deponent exhibiting to me his Personal Cedula Numbered a-0888, issued at the City of Manila, Philippine Islands, on the 4th day of January, 1907.

[NOTARY DRY SEAL.]

(Sgd.)

W. H. BISHOP,

*Notary Public.*

My Commission expires December 31st, 1908.

(20c. Documentary Stamp Internal Revenue.)

I hereby certify that I have examined the foregoing translation and find the same substantially correct.

*S. Yt.**S. Yt.*

[CONSULAR DRY SEAL.]

(Sgd.)

SU YU-TCHU,

*Consul General for China in and**for the Philippine Islands.*

May 11, 1907.

612 It is a true copy of the pages 76 to 97 of the book titled "Facultades de Los Obispos de Ultramar" by the Excmo. and Ill. Dr. D. Fr. Francisco Gainza.



*Solita Undécima.*

Dispensandi cum gentilibus, et infidelibus plures uxores habentibus, ut post conversionem, et baptismum, quam ex illis maluerint, si etiam fidels fiat, retinere possint, nisi prima voluerit converti.

Authority for the dispensation of the gentiles and infidels who have many women, in order that after their conversion and baptism, they may retain the one among them that they desire, if she also becomes a Christian, unless the first desires to be converted.

1 Difficulty in understanding this Solita: opinion of the PP. Anunciacion and Fuixá.—2. Interpretation by the latter: Difficulty.—3 Interpretation according to P. Anunciacion.—4. The two interpretations are not satisfactory: words of Benedict XIV.—5 Interpretation of the same: greatest force of the argument.—6 Words of S. Pablo, which are the law in the matter. 7—Their interpretation according to Benedict XIV.—8. Provision of the Ancient Law: declaration of the Sacred Congregation.—9. Cases in which a recent convert may contract second nuptials. 10. Interpretation of the Solita in my opinion. 11 The Ilmo. Montenegro supports this explanation: his words. 12. Grace conceded by Paulo III regarding this particular. 13 Custom introduced and grace conceded by S. Pio V.—14. The Ilmo. Montenegro y Morelli regarding this grace: application in the Philippines. 15.—Cases that may occur in the Philippines among the Chinese: difficulty in complying with the interpellation. 16. Bull of Gregory XIII. 17. Its application to the Chinese.—18. It may be used in Manila, as well as that of 613 S. Pio V.—19. Proofs of this assertion: words of Morelli: declaration of the S. Congregation.—20. Circular of the S. Congregation for performance. 21. Declarations.

*Explanation.*

1. Having carefully examined this concession, says P. Anunciacion, I do not find anything new "and special, which in this Solita His Holiness concedes to the Sres. Bishops of America, even speaking of those who in their diocesis and territories have missions and conversions of infidel indians, nor that the concession of dispensation which is mentioned in this Solita would be necessary. If we confine ourselves to the certainty or materiality of the words, adds my illustrious predecessor, ubi supra, num. 43, not only is it superfluous but also absurd, because the converted infidel is free to marry who ever he pleases, if the first woman, who is the only wife, being warned, refuses to be baptized. (1) "And in fact: the recently converted infidel, referred to, was or was not really and truthfully married to the first woman, taken while a non-christian. If he was not, because the contract celebrated between them did not have all the requisites of marriage according to the practices, laws or customs of



his caste, in this case, not being more than real concubinage, he may marry after being baptized with any of the concubines who may also be baptized, or with any other Christian who is not a concubine, and therefore the dispensation is useless. If the marriage contracted, while a non-christian, with the first woman was really such, but she does not wish to be converted, nor live with him *absque injuria Creatoris*, the dispensation is not necessary either, because it is already dispensed by the Church in favour of religionists; so that in both cases it seems in fact that this *Solita* is unnecessary.

2. P. Félix as well as P. Annunciation seek for the special grace conceded in this *Solita*, in order to avoid that which is *fructumane*, and more especially the absurd. It appears that that which is conceded in this *Solita* is that one may contract other nuptials, omitting the bans when the infidel's spouse lives in distant regions, or is so hidden that summons cannot be made; because some clergy and others, with more reason, maintain that in order to omit it a dispensation of the Pope is necessary. And yet there are some of the opinion that even though the infidel spouse be present and in a known place, —“(1) Then according to this interpretation, a recently converted infidel may be granted dispensation that he may, without reliving his first infidel spouse who may desire to be baptized or at least cohabit *absque injuria Creatoris*, marry any one of the other concubines who desires to be and in fact is baptized. But this *Solita* stating *nisi prima voluerit converti*, how may it be known, if the said admonition is not made?”

3. P. Annunciation, on his part, tries to explain it by stating: “the singular part of it consists in that some believe that the marriage of the infidels is dissolved when the one who was converted to the faith married a Christian, and others that, if, after the expiration of the period prescribed by the Council of Limonze and the last admonition, the infidel consort persists in being an infidel \* \* \* in case this second opinion is the correct one the Bishops of these parts, in the name of His Holiness, may grant dispensation in the indissolubility of the first valid marriage, even though consummated, and this new Christian may marry any Christian woman;” and analyzing a paragraph of the Bull of Gregory

XIII, which I will speak of later, regarding the dispensing with the admonition, adds “And this very thing is granted in the *Solita* by the Pontifices to the Bishops of this America, even though it is not mentioned because it is supposed to be conceded by the said Bull.”

4. Notwithstanding the respect which the opinion of these illustrated gentlemen is entitled to, I believe I am in a position to destroy it with the doctrine of Benedict XIV which in this and all matters, must be respected above all others. After having analyzed the two Bulls of SS. Pius VI and Gregory XIII, in Book 13, Chap. 21 de *Synodo diocesana*, on which P. P. Félix and Annunciation base their opinion, and those with which I will occupy myself later on, he treats in num. 6 of the faculties which are conceded to the Bishops, Apostolic Vicars and Parish Priests of the Missions of America, Asia and

Africa, and inserting this entire Solita, adds: "No mention is made in the said formula of the faculty to grant dispensation in respect to the juridical and formal summons which should be made on the first consort, in order to make known her desires regarding the adoption of Christianity, and to substitute in its place, extrajudicial notices or other circumstances and arguments, which show that it is altogether improbable that the first consort desires to be converted to the Christian religion, which is exactly what is stated as conceded in the two Constitutions of S. Pio V. and Gregory XIII." Therefore, it is a question of investigating how those who have permission to use this authority must conduct themselves when it happens that they are ignorant of the country in which the first consort resides, and there appears great probability that if summoned she will not care to be converted to the Christian religion.

616 5. We find then, that according to Benedict XIV, the Bishops of America cannot grant dispensation in virtue of this Solita nor even declare that the admonition is not obligatory; that this faculty is not included in it, and therefore, there is doubt as to how those who have nothing more than this faculty should act in case it happens that the summons would not be easy or would not produce results. If the case happens in Europe, near the Holy See, it is easily solved, continues the same author; but when it occurs in remote countries it is surrounded with difficulties." "When the case occurs, he says, in any country very distant from us, and the Bishops and Missionaries are compelled to petition the Roman Pontiff and wait for authority from Rome to excuse the recent converted Christians from such fatal solemnity, it is really a matter which is subject to grave manifestations and difficulties on account of the immense distance between the two places. (1) "And yet with all the argument answer is not made that they can grant dispensation in virtue thereof, but merely states that it would be well to grant them more extensive latitude." For the same reason it would be advisable to add to the said formula the same as is contained in the said words of the two Pontiffes, regarding the omission of the summons of the first infidel consort. (2) "In view of this doctrine I cannot reconcile it with the opinions above referred to, as they contend that in virtue of this Solita the recently converted spouse may contract second marriages immediately, omitting the interpellation; and Benedict XIV affirms that it does not include such faculty and it would be advisable to amplify it, because it is not sufficient as written to dispense with the said interpellation even in countries very remote from Rome.

617 6. Not being able to admit with certainty the opinion of the first two mentioned authors, what is the Grace which is conceded by this Solita? It having been hidden from these two gentlemen, with whose wisdom it would be an imprudence to compare my notorious insufficiency, it would not be strange if I, too, fail to discover it, nevertheless, a very simple explanation has occurred to me, which I am going to emit with prudent timidity, which involves an idea that I have not seen in the papers or authors

which I utilize to make this commentary. It is known that the Apostle St. Paul in his first letter to the Corinthians, Chap. 7, promulgated the law which governs in this matter, and with which the Church conformed in the subsequent centuries, "If any brother, says verses 12 and 13, has an infidel wife, and she consents to cohabit with him, she is not to be put away; and if any woman has an infidel husband and he consents to cohabit with her, the husband is not to be put away;" and in the 15th verse: "If the infidel consort separates, separate, because the brother or sister is not subject to slavery in this respect—" (1).

7. The same Benedict XIV commenting on these words in the said work, Book 6, Chap. 4 No. 3, says: "It is correct that the marriage of the infidels is dissolved (by privilege granted by Our Savior Christ in favor of the faith, and promulgated by the Apostle St. Paul in his first — to the Corinthians) when one of the spouses embraces the Christian faith, the other refusing, persisting in his unbelief, to cohabit with the converted spouse, or even desiring to cohabit, but not without reproach to the Creator, that is to say not without danger of perversion of the spouse, or not without execration of the Sacred Name of Christ and depreciation of the Christian religion. Hence,

618 it is that the converted spouse has not the right to contract another marriage before the interpellated infidel refuses absolutely to cohabit with him, or manifests an intention to cohabit with him without depreciation of the Creator." Referring to the same authority, Book 13, Chap. 21 No. 4, says: "From this principle another was deducted in consequence, and that is that the converted spouse is obliged to interpellate the infidel spouse, in order that he may clearly manifest his intentions regarding the matter (1)."

8. This doctrine is in accord with the famous Chapter Gaudemus, 8 de Divortiis, in which His Holiness conclusively says: "The convert to the faith of Jesus Christ, can never, having a spouse living, take another, unless after his conversion the other refuses to cohabit with him, or even when consenting, does not do so without depreciation of the Creator, or in order to induce him to commit mortal sin; in which case—according to the Apostle, the brother or sister is not subject to such slavery (2)". Decision adopted by the S. Congregation, the 23rd of January, 1603 many centuries afterwards." The S. Congregation believed that answer should be made: That the said converts to the faith could in no way take other Christian women, without it first appearing whether the first women desired to cohabit with them or not. But if they do not desire to cohabit, or even when so desiring, it would not be without depreciation of the Creator, or without inducing the converts to commit mortal sin, then these may take other Christian women. But if the infidel women desire to cohabit with their husbands without depreciation of the Creator and without inducing the converts to commit mortal sin, these cannot take other Christian women even when the infidels do not care to embrace the true faith. The objection made, to wit: the distance of the place, the difficulty and the

presumption, is not sufficient because the express desires must appear (1)". In respect to this double admonition there is among others a declaration of the 5th of March, 1816 referred to by the Jesuit P. Sica in his *Casus conscientie resoluti* in *Missiones Nankinensi* page 93 (2).

9. I have dwelt considerably on this, not precisely in order to refute "the opinion (which the said Benedict XIV says is not a sure one in practice) which is sustained that this Judicial interpellation may lawfully be omitted, when really it cannot be done, or if done does not produce any effect (1)", but to set forth clearly, concisely and irreproachably, that the Church does not permit the recently baptized to contract second nuptials in two cases: first, when the infidel spouse also desires to be baptized; second, when, even refusing to embrace the Christian faith *quamvis veram agnoscere fidem noluerit*, with all desires to peacefully cohabit with her baptized spouse, without inducing him to sin or offend the Creator; so that in order to authorize a new convert to marry it is not sufficient that his infidel spouse does not desire to be converted but it is necessary that she does not desire to remain with him *absque injuria Creatoris*.

10. The question being put in this manner, and noting particularly the words of this Solita, I believe that the special grace therein conceded is that the recent convert may be granted dispensation in order that he may marry any one who is converted to the faith whether concubine or not (because to marry any of the concubines is not obligatory but simply a privilege) if the first woman does not desire to embrace Christianity, although desiring to cohabit peacefully with him, and *sine contumelia Creatoris*. Those words

619  
620 *nisi prima voluerit converti* may be understood literally and for the same reason in the event that the spouse does not desire to be converted, dispensation may be granted to the convert in order that he may immediately contract marriage with another, without the necessity of asking and knowing the other extreme, that is to say, whether the infidel consort desires or not, or even when as a matter of fact she desires to cohabit with him without inducing him to sin. This explanation is rational, because it is clearly within the words of the Solita, and besides is sufficient so that nothing superfluous and much less absurd is said, because it makes one of the two extremes dispensational, which the Church requires of the new convert before being authorized to contract second marriage.

11. This doctrine may be supported by another analogous one which is given by the Ilmo. Montenegro, Book 3, treatise 9 sec. 5 No. 1 "There is no doubt whatever, he says, that the infidel spouse who has been converted to the faith, the consort remaining an infidel, may marry with another person under one condition, to wit, that the person who remained an infidel, persists in not desiring to be baptized; and in order to prove this persistence certain means may be used, which are, to personally, or by means of a third person, summon and petition her to be baptized and she not desiring, he may marry the person he wishes." If this wise author sustained this opinion, even before these Solitas were known an opinion that cannot now be supported by the declarations set forth in number 8,

I believe that mine can well be defended, when it appears to be supported by the words of the Solitas themselves, and I, in my turn being able to close this difficult explanation with the very words of the said P. Anunciacion. "And if this is not the interpretation of this Solita, there is nothing to be dispensated and the present concession would be completely frustraneous (1)".

But be that as it may, we will now set forth other precise and unquestionable privileges which we have here. Among the many graces which the Pope Paulo III concedes to the Indians in his famous Bula *Altitude*, 1st of June, 1537, one is expressed in the following terms: "With reference to their marriages we direct that this be observed, to wit: that those, who had many women before their conversion, as is their custom, and don't remember which is the one first taken, when converted, will take the one among them that they desire and contract common law marriage as customary; but those who remember which was the one first taken, will retain her, putting away the others (1)." In America this case was more possible than in the Philippine Islands, whose Indians are more talented than some in the castes in the new world. But inasmuch as it might happen that in the mountainous parts of the interior of Luzon or Mindanao, an Indian might be found who, on account of his limited qualifications, or because his parents married him when very young, as customary, or for any other reason, does not remember which was the first woman he married, in this case he may choose the one he prefers, granting that she, too, desires to embrace Christianity, and marry her according to the rites of the Council of Trent; and adds this, because supposing that the chosen one is the second, third, etc., and that he contracted real marriage with the first, whom he does not remember, she cannot after being baptized unite with the man also baptized *coram parrocho et testibus*, inasmuch as the union with her while an infidel was a real concubinage.

13. This grace, as is seen from its context, was not entirely complete, because it only served in case it was not possible to ascertain who was the first woman taken while an infidel, because, it appearing which was the first, the recent convert was obligated to continue with her, without liberty to choose another among the former concubines or mistresses. Hence a custom was introduced which S. Pio V sets forth in some apostolic letters, cited by Benedict XIV, *De Syn. dioces* Book 13 Chap. 21 No. 3, in these words: "He states (S. Pio. V.) that it was customary among the Indians who had many women while infidels, to retain as his wife when converted to the faith, the one who consented to receive with him the knowledge of Christ as God, and to embrace his faith (1)." As this was not supported by any concession from the Holy See, it offered grave difficulties, and was the cause of doubt against the Bishops and missionaries, whom on their part could only with difficulty abolish this custom. So the said Benedict XIV in the place cited says: in the following form: "But this offered serious difficulties because many times it happened that those who embraced the Christian religion at the same time as their husbands were not the first wives, and on the other hand it was very difficult to separate the Indians from such women



who offered to be baptized with them (1)." In order to quiet these scruples and give a complete solution of such a difficulty, the said S. Pio V. issued the following declaration, which paragraph the said Benedict XIV cites in the following terms: "Therefore it being our desire to look with paternal affection on the situation of the said Indians, and desiring to avoid such doubts of the Bishops and Ministers *motu proprio*, with certain knowledge and abundance of Apostolic power, by these presents and with Apostolic authority we grant that the said Indians already baptized, or hereafter baptized, may remain as with a legal wife with her who was baptized  
623 with them, putting away the others, and we declare that this marriage, remains subsistent between them (2)."

14. Benedict XIV does not state the date of this concession which S. Pio V. advanced one step farther than Paulo III: but we believe that it is the same as that treated by Montenegro and Morelli as all the texts of these authors agree with that of Benedict XIV who inserts it literally.

In effect here is set forth says the Ilmo. Montenegro, Book 3, treatise 9, of marriages of infidels sec. 5 Num. 3, the privilege of S. Pio V. of the 2 of August, of the year 1571, in which is conceded that those who are converted to the faith having had many women while infidels, may marry and have as a legitimate wife that woman whom among them is converted and baptized together with them, even though she is not the first of those taken, while an infidel, and is still living, and that said marriage will be considered legitimate without any scruples whatever."

P. Morelli in order 132 speaks of this Bull, which agrees in substance and date, even though mention is not made of the Pope who issued it: "So that the Indians converted to the faith, who, when infidels, had many women, may marry and have as their legitimate wife the one who is converted and baptized together with them even though she is not the first of those taken while infidels, and this marriage will be reputed as legitimate without the least scruple (1)."

This grace may be used among the infidels having many women, in the Island of Luzon and the other Islands, even in case it is known which was the first one taken.

15. But in Manila and some parts of the provinces particular cases arise every day which cannot be decided by the foregoing concessions.  
624 Here we have many Chinese married in their country, and when residing here desire to embrace Christianity and in fact do so; but are of those of whom Benedict XIV says are baptized in order to marry, *sine quo fortassé non sumerent*. Many of them may not know whether their woman are living, or at least if living where they reside; if baptized and they are not permitted to marry here they are exposed to a thousand offenses against God, as unfortunately is evident; if they are obliged to return to their country, it puts them in certain and imminent danger of falling into idolatry to which they are so tenaciously addicted, as well as to prejudice them in their mercantile interests which alone is sufficient so that none will embrace Christianity; if it is desired to make judicial interpellation and await the result, it is not an easy

thing, either on account of the difficulty of it reaching the hands of the wife in such a Babylon as is the Chinese Empire, or to find a person who can make the judicial summons and certify that the interpellated woman does not desire to be baptized nor even live with her husband absque injuria Creatoriis; and finally when we know by experience that such summons is almost useless because the women rarely emigrate from China not alone to these islands, on account of the unfounded belief that they will be obliged to embrace Christianity, but to the English and Holland colonies, nor even to infidel countries such as Joló, Borneo, etc. etc. where they so much desire to go and where they may live with unlimited freedom.

16. Then in order to overcome these difficulties, which are neither small nor imaginary, we have the Bull of Gregory XIII, *Populis ac Nationibus*, of the 25th of January, 1585, in which His Holiness,

speaking of the negroes of Angola, Ethiopia, Brazil and other  
625 Indian regions, who, being married in their own country, were brought or captured and transported to other parts of America, when with time they desired to become Christians and marry Christians, Says: "It is proper to be indulgent regarding the liberty to contract marriage, in order that some men, who are in no manner accustomed to practice self command, should have less desire to continue in the faith, and others, through their example, not be persuaded to embrace it; and because it often happens that many \* \* \* "are transported from their native country, and separated from their own spouses, to very remotes countries, so that those who remain in their own country, as well as those captured, when later converted to the faith, cannot interrogate (as proper) their infidel spouses, the places being so far apart, in order to learn whether they desire to cohabit with them without depreciation of the Creator, either because in some cases there is no way in which to have the notice reach the hostile and barbarous nations and provinces, or because they don't know to what place they were taken, or because the long distance offers great difficulties \* \* \* by these presents and with apostolic authority we grant full power to the Ordinaries of said localities and to the Parish Priests \* \* \* to grant dispensation to all the faithful ones of Christ, of both sexes, inhabitants of said countries, and to the slaves converted of the faith, who may have contracted marriage before being baptized in order that they may contract marriage with any Christian, if in other respects it is according to the rites of the Church, and solemnize it in facie Ecclesiae, even though the infidel spouse be still living, and without trying to obtain their consent and without waiting for the reply, and that they may licitly continue therein while living, once it has been consummated by carnal copulation (1)."

17. We find then, that in the cases comprehended in the  
626 Bull, some of which are completely verified among the Chinese of these Islands, that second nuptials may be contracted, omitting the judicial interpellation, with the condition that it summarily and extrajudicially appears in each case that it is not possible to do so, or if done that it gave no positive result (1), and many if not all the Chinese may, in my opinion, be included in the first of



the two alternatives on account of the difficulties hereinbefore stated. And, having foreseen the possibility that after the second marriage was celebrated the first spouse might appear, asserting that she had not legally been able to state her desires, or that she too was a Christian before the celebration of the second marriage, The Pope desired to eliminate all anxiety, and directed that notwithstanding this claim the second marriage must be considered valid. "That these marriages, says His Holiness, we declare must never be rescinded but must be considered firm and valid and the offsprings thereof legitimate, even when it later appears that the first infidel spouse, legally impeded, had not been able to manifest their desires and had also been converted to the faith at the time the second marriage was contracted (1)."

18. Such are the principal powers granted regarding the interesting and no less complete matter of matrimony; and even if Benedict XIV, in the place cited, num. 6, says that the two Bulls of S. Pio V. and Gregory XIII were issued for certain and specified countries without their contents being applicable to others in which exist similar circumstances and reasons (2), nevertheless there ought to be no difficulty in using them in the Islands. Of that of S. Pio V. there can be no doubt because it was issued in favor of the Indians of our Americas, in which these Islands are included for legislative 627 privileges and exemptions; and of that of Gregory XIII it is deduced from its context and practice. From its context then, although His Holiness, having in mind the needs of the *salves* of Angola, Ethiopia, and Brazil, added and other nations of the Indias, and in the dispositional part conclusively says: "In order to grant dispensation to each and every faithful one of Jesus Christ, inhabitants of said countries, and to the slaves converted to the faith (1)" in which words are embraced the two extremes of the inhabitants of these countries, which includes the Chinese; and the slaves which might include prisoners and captives brought from Joló, and the tribes of the interior of Cagayan, La Isabele and other provinces.

19. Therefore, it is not strange that Morelli, in the annotations to the Order 167, which is the extract of the Bull of Gregory XIII, says: "Finally observe that Benedict XIV who cites this privilege as granted by Gregory XIII for Angola, Ethiopia and Brazil, omitted other countries of the Indias, for which it was equally granted as "appears in its literal text" (2) and it is not strange either that the University in 1831 defended this doctrine, contained in the propositions 92 and 93, which are extracts of the said Bull. Finally, this Bull is also extended to China, because the Apostolic Vicar de Xamsi y Xamsi having asked Gregory XIII "an potestas facta prout testatur Benedictus XIV (here copies the Bull and what Benedict XIV says) extendatur etiam ad missionarios in imperio Sinensi degentes?" he was answered under date of November 23, 1769, affirmative. With all Perocheau (Theog. etc. ad usum miss. Su-tchensis, tom. 2 pag. 366), de impedim. matr. places this power among those which the Apostolic Vicar has exindulto S. Sedis; and the said P. Sica, pag. 96,

states among other reasons that a marriage is void for having omitted the interpellation; advising that in that Apostolic Vicarage of Kian-nan, the missionaries have not the power to dispense with the interpellation, but that it is reserved to the only Apostolic Vicar, and his General Vicar. Some Apostolic Vicars ought to have authority to delegate it, because as a matter of fact they do delegate it to some missionaries.

20. In order to close this matter I am going to copy a paragraph of the instruction, circulated by order of Pope Clemente XIV to the Apostolic Vicars of China and Tunkin for the better observance of this power, and four declarations regarding the same. "Also observe, Your Honors, with diligence and all possible precaution, says the instruction, as well as all the other missionaries subject to Your Honors, that in each case that it is believed necessary to dispense with the interpellation of the infidel spouse, it is not sufficient that they are inwardly convinced of the impossibility or difficulty in putting it into execution, but that it is necessary to make a summary information in which always appears its justification, to wit: because it is not known where he lives; or because as a matter of fact he stated his refusal; or finally, because it is so far that the interpellation cannot reach him, or at least that it appears very difficult, and in these cases it would be well for the highest precaution that citations be made on the doors of the Church, or by edicts, fixing a prudent period within which to appear or establish. This preliminary investigation is based on the letter and spirit of the Breve of Gregory as follows: Provided that it summarily and extrajudicially appears that the absent spouse could not be legally interpellated, or that if summoned did not express his will in the time fixed above. His Holiness expressly prescribes and desires that this summary information be made absolutely by Your Honor and by all those to whom this same power has been delegated (1)".

21. The declarations are the following:

1st. "The interpellation must be made after the interpellating party has been baptized, it is not sufficient that it be made while a catechumen;" so answered the Congegacion del Sto. Oficio to the Apostolic Teché-ly, on the 13th of April, 1859, as referred to by the said P. Sica pag. 94.

2nd. That even some years after one's baptism and peaceful living, the privilege of interpellation always remains, if the infidel spouse for whatever cause although not in abhorrence of the faith, separates from the Christian\* provided that he did not give her a just and reasonable motive to separate: decree of the S. Inquisicion August 1, 1859 and the Sacred Congregation of propaganda 1807; the said P. Sica pag. 103 104.

3rd. Do not repeat the interpellation of the spouse who remains an infidel, if after the first interpellation is made the Christian defers from contracting other nuptials for an apparent period of time. S. Congreg. de Propag. year 1821, Perocheau, loc. cit. P. Sica cites a case of three years and in which the interpellation was not repeated, and he considered it valid, pag. 113).

4th. But if dispensation from making the interpellation has been

obtained and a year has passed since the dispensation without the marriage taking place, new dispensation must be asked for; Sacred Congregation of Propaganda, ann. 1821. Perocheau (1).

It is a true copy of the original.

(Sgd.)

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LEDESMA & SUMULONG,  
*Attorneys for Defendants.*

\*(Apparently an error in copy "infiel.")

630 It is a true copy of its original.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

It is a true copy of the book entitled "Facultades de Los Obispos de Ultramar" by the Excmo. é Ilmo. Dr. D. Fr. Francisco Gainza, pages 318 to 322. 2nd Edition.

*State of Being Single and Free.*

27. All the dispositions mentioned up to the present time have emanated from purely the civil authority. There are others in which the Church took the initiative, and seconded by the secular arm: which are at present those relative to being single and free. The Church which in its high wisdom has foreseen that the evilness of man might cause him to forget his most sacred duties and violate the sacred laws of the bridechamber, dictated at all times the wisest and prudent provisions, in order that they cannot contract new obligations, the first being subsistent; and hence the necessity of proving the state of being free and single of those persons who wish to contract marriage, giving it the greatest publicity, either in order to avoid a palliated concubinage, or the prejudice of acquired rights. Without going back to remote periods, the Council of Trent in Chap. 1, section 24, of the reformation of marriage, insisting in the dispositions of Inocencio III in the Council of Letran, ordered that none could marry without first having published the banns on three consecutive holidays, at the hour of High Mass, in order that the people might denounce any impediment that might exist and impede the realization of the marriage. And in Chap. 7 of the said

631 session, speaking of the travelers, in which word is comprehended for our intentions, all strangers to the country, and even of the same country if they are from other diocesis and even distant parishes, says: that the Priests will not authorize their marriages, without first having performed the necessary proceedings in order to investigate whether single and free, and without making the result known to the Bishop and first obtaining his authority.

28. In order that these proceedings might be correct the Congregation of the Supreme and General Inquisition, issued, under date of October 23. 1699, instructions to all the Ordinarios (Presiding Bishops) indicating the forms that must be observed, as well

as under date of August 21, 1670, it circulated a minute and detailed interrogatory, so that in case Bishops had occasion to examine the witnesses, before issuing the certificate of being single and free. Then, following the provisions made, when any one of the contracting parties is a traveler or stranger in the sense defined, besides the proclamations that must be made in the parish in which the marriage is to be performed, authentic proof must be presented from the Ordinary or Ordinaries of the different places in which residence may have been had since arriving at a marriag-able age. But as it is not always feasible to present such documents nor even observe the said instructions with such minute exactness, the same S. Congregation, asked by one of the judges assigned in Rome to preside in matters relative to marriages of the natives of the provinces or ultramontane kingdoms residing in that Capital, was answered through the Cardinal Barberini, "That it was left to his discretion to decide as to the marriage of the said ultramontanes, when, on account of the distance of the country, it is impossible to exactly comply with the said instruction."

29. All this which is common law, is partly modified by the legislation of this country. In the Real Cedula of the 31st of  
 632 August, 1754, in which an elaborate history is given of all the means adopted by both authorities regarding this matter, mention is made of the two Apostolic Briefs issued by His Holiness, one the year 1673 (May 12) and the other 1698 (May 3): the first directing that the Parish Priests may marry members of his parish without authority from the Presiding Bishop, and without the necessity of their going to the Bishop's place to give information as to being single; and the second providing that in order that it may be done with less expense for travelers and strangers, or those from distant parts, the Bishops should establish Perfects (Vicarios foraneos) every twenty leagues (dos dietas), or commission the Priests of the towns that the contracting parties are from" and not only directing observance of the provisions of His Holiness, repeated many times by H. M., but also to close the door to future discussion by declaring that further complaint about the matter will not be permitted. It is true that notwithstanding this explicit communication, the Archbishop of Manila, under date of June 11, 1749, stated to H. M. that he found a punctual observance of the said Cedula and Apostolic Briefs in the entire Diocesis with the exception of ten ministries, which he named, beyond the walls of this City, and H. M. in the Real Cedula of May 19, 1751, approved the immemorial custom that the Indians of the said ten Ministries had to give the information in the Archbishop's place; but it is also true that later efforts were made to abolish this prejudicial custom, and finally, the present Exemo. Archbishop, barely appointed Gobernador of the Diocesis, by his decree of March 27, 1846, abolished "said practice, placing the said twons on an equality with all the others in his Diocesis in respect to the said information, only the travelers, strangers, or those  
 633 coming from other Diocesis, remaining subject thereto, and all those who on account of special circumstances, we deem it advisable to establish their freedom in the Archbishop's Place."

30. We find then, 1st, That, by common law recognized in the Council of Letran, confirmed by that of Trent, Chap. 1 of session 24, and corroborated by the civil dispositions inserted in the said Real Cedula, the Parish Priests can and must receive the information as to the freedom of all his parishioners and marry them, without intervention by, nor authority of, the respective presiding Bishop. 2nd. That although according to Chap. 7 of the said session, no Parish Priest may authorize the marriage of travelers and strangers, or those from distant parts, without proper authority from the Bishops, these, according to the provisions of the Apostolic Brief of May 3, 1698, must establish Perfects or other competent authorities, or authorize the Priests themselves to receive the information of this class of persons, for greater facility and expedition, although reserving the power to grant or deny permission for the marriage, according to the results of the investigations. 3rd. That as neither the said Cedula nor the Briefs cited, state the manner and form of making these investigations as to freedom of travelers and strangers, it is apparent that the Bishops as well as their delegates must be guided by the instruction circulated by the S. Congregation under date of October 13, 1699, and its interrogatory of August 21, 1670. 4th. There existing in the Philippines stronger reasons than those which in Rome caused the declaration regarding the marriages of travelers, its doctrines may be amplified, leaving it to the prudence of the Bishops to require such or such documents, to make such or such investigations in order to arrive at a moral knowledge of the free and single state of the one who desires to marry, without blindly  
 634 requiring in all cases a material observance of the said instruction or interrogatory. And this is precisely what is done in the Philippines from time immemorial, notwithstanding that there has been cases during the last years, in which the proclamations were sent to Spain and the result thereof waited for, and certificate of the Bishop suspending the marriage in the meantime, in the others, as a general rule, information of witnesses is received, which, with other investigations, more or less ample, made here the declaration of the marriage of the Spaniards is proceeded with; although in regards to strangers, exquisite precautions are taken, and especially so when they embrace Catholicism (1). Nevertheless, this is a matter in which the Priests of the Indies never put too much diligence, as frequently cases of bigamy are seen with grave injury to the sacrament and scandal to the population, the proclamations and witnesses not being adequate in investigations worthy of credit are not made in case the persons are not known.

It is a true copy of its original:

(Sgd.)

ROSADO, SANZ & OPISSO,  
 LEDESMA AND SUMULONG,  
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It is a true copy of its original.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

It is a true copy of pages 70 to 74 of Volume I, entitled *Tratado-Practico de Procedimientos Eclesiasticos in Materia Civil y Criminal*, by M. I. Señor P. Jose Cadena y Elela, Pbro.

Volume I, Chapter V.

*As to Matrimonial Records.*

In order to terminate this matter of the requisites or  
635 solemnities preceding the celebration of the marriage, let us consider the matrimonial records, which, whether prepared or formed in the Parish or in the Ecclesiastical Court (*Curia Episcopalis*) according to the diversity of cases, by reason of persons and places, have no other object than to surround the stability or indissolubility of marriage with all possible guaranties. We will begin by treating of the records which must be prepared by the Parish Priest which are the most common and simple.

1. It is just and reasonable that the Parish Priests will not proceed to authorize the marriage of their parishioners without first acquiring a moral certainty as to the free and single state of the contracting parties, and the greater probability that there does not exist any canonical impediment between them, with which they will be exempt from all probability.

The proceedings had for this object, and which must be made in writing, form the matrimonial records, and must be conserved with all care in the parish archive.

The cases in which the Parish Priests of the contracting parties is called upon to prepare this matrimonial record, are the following: 1st. When the contracting parties were born and have constantly lived in the parish. 2nd. When, not having been born in the parish, they lived in it since arriving at a marriagable age. And 3rd. When, the contracting parties being from a distinct parish of the same diocese, the Priests can easily communicate, facilitating information which they mutually request in investigating the free and single state of these. In such cases the Parish Priest can proceed to the celebration of the marriage without obtaining the permission of the Ordinary.

The Parish Priest called upon to formulate the record is  
636 that of the bride, according to the custom established, and the competent ecclesiastical court is that of the diocese in which the bride resides. In respect to this matter precise and concrete rules cannot be given, but the priests will be guided by the dispositions or the circulars and instructions issued in each diocese by the respective Prelates, which undoubtedly will not be lacking in any Bishopric. So, in the ecclesiastical province of Valladolid, the priests must always have in mind the dispositions made regarding this matter by the last provincial council celebrated in Valladolid, which are found in tit. VIII of the 3rd part of the same.

Nevertheless, let us give a general idea of the documents which must appear and the proceedings which must be instituted in the said matrimonial records. The entries of baptism of both contracting



parties, and if one was a widow or widower, the entry of the death of the deceased spouse; the minutes in which are made to appear that they had obtained consent or favorable council for the marriage, must contain this requisite, unless the persons called on to give it do so in the act of the marriage; the document in which the groom shows that he is exempt from military service, from which document information will be taken and placed in the record in the form of a minute if the original is to be returned to the interested party; the certificate of the result of the publishing of the banns if these were read in another parish of the same bishopric, issued by the Parish Priest of the said parish; such are the documents which must appear in the matrimonial record formulated by the Parish Priests. It would be very advisable to make the declarations of the contracting parties appear in it, especially when any of them have been absent from the parish for any length of time. In this case

the Priest can make use of the 5th formula which appears  
637 in Chap. III of this title.

Lastly, and as an ending to the record, the Priest will make a record of the result of the publishing of the banns in his parish; the approbation in the Catechism; that the parochial books fail to disclose any canonical impediment existing between the contracting parties; and that they, after having confessed and taken communion, were married and attended mass in the parish church, on such a day. All this is made to appear in a minute of the following form:

#### 1st Formula.

Minute: I, the undersigned Parish Priest of — certify that, having read in this Parish, intra missarum solemnities on the holidays —, the banns provided by the Council, for the proposed marriage between N. — and N. — my parishioners, there did not appear as a result of the reading any impediment to oppose its celebration, that, the sacramental books of my parish having been examined did not disclose that there exists any canonical impediment between the said contracting parties; that N. — and N. — were examined and passed in the catechism, having contracted marriage in this parish church after having confessed and taken communion, the — day of — one thousand —. And in testimony thereof I sign in — the — day of — one thousand —.

(Signature of the Parish Priest.)

With this data we believe that the Parish Priests can formulate complete matrimonial records, which, placed in packets by years with a tag or indication which states "Matrimonial Records corresponding to the year —," must be preserved in the Parish Archives.

638 2nd. Let us now treat of the matrimonial records formed in the ecclesiastical courts in the various classes, each of which requires a separate paragraph.

In the preceding paragraph we treated of the cases in which the matrimonial record may be formulated by the Parish Priest of the



contracting parties, and now we will speak of those cases in which it is necessary to appear in the ecclesiastical court in order to formulate the proper record. These are all cases, excepting those three pointed out as being within the jurisdiction of the Parish Priest. So when treating of the marriage of strangers, or foreigners with Spanish women, travelers or individuals of other diocesis, or of those who, being of the same diocesis, were absent therefrom for a certain time, after arriving at a marriageable age, and of military men, it is necessary to appear before the Ecclesiastical Court, these marriages not being authorized without the superior permission of the Bishop. We will now take up each one of these particular records.

Records for Strangers.—These are the ones that are prepared for the celebration of marriages among strangers, or between a stranger and a Spaniard. The acts that must be performed in these is left to the direction and discretion of the Ecclesiastical Superior, not being able to furnish fixed rules. Nevertheless, we must state that special care must be exercised in investigating the truth and legality of the documents which the interested parties present and that they be vized by the Council or the person in charge of Spanish business in the country from which they come, or by that of said country in Spain, the same being translated by the Interpretacion de Lenguas; and if they are documents proceeding from foreign Ecclesiastical

639 Courts, that the same be more recommendable, that they be vized by the Apostolic Nunciatore of the country from which they come if possible, in which case the Apostolic Nunciatore of Madrid will verify the seal and sign thereof.

It is also advisable to take into consideration the civil dispositions regarding matrimony in force in the country of the contracting parties, especially when treating of the marriages between foreigners and Spaniards, in order to avoid, not the nullity thereof, because when contracted in accordance with the canonical dispositions it will always be valid and indissoluble, but all pretext of nullity alleged in virtue of dispositions anti-canonical given by the Civil Authority, as happens in the neighboring nations in regard to the disposition of Art. 17 of the Napoleon Code.

With the presentation of documents, the contracting parties will be required to declare under oath as to their liberty and single state, receiving also the declaration of three witnesses regarding the same subject. Then proceed to the publication of the conciliar proclamations in the place or places which the Ecclesiastical authority directs; and, lastly, when, from the investigations made the free and single state of the contracting parties is established, and that between them there exists no canonical impediment, the permission for the celebration of the marriage may be conceded. Such are, in our opinion, the only regulations which may be given regarding this matter.

It is a true copy of the original.

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It is a true copy of its original.

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640 It is a true copy of the book entitled "Facultades de los Obispos de Ultramar by the Excmo. é Ilmo. Dr. D. Fr. Francisco Gainza, pages 308 to 313, 2nd edition.

*Matrimony: Royal or Superior Government License.*

I. Chinese.

12. Not all persons (says Sr. Gutierrez Fernandez in his work "Codigos ó estudios fundamentales, etc., Lib. 1.o p. 4, art. 4) fulfill the requirements by having obtained the paternal consent; there are those who by reason of their class have to have Royal license, and this is proper in order to conserve the luster of the position or as a sign of respect to the authority of the sovereignty or Superior." This doctrine may be applied in the Philippines to employees, magistrates and military men of the Army and Navy, of which I will subsequently treat, who equally with some other classes and individuals of those enumerated, must request and obtain permission of the Superior Government of these Islands. I will commence with these, treating first of all of the Chinese.

13. Omitting as useless ancient antecedents as to residence and marriages of the chinese christians, it is sufficient to know that the Superior Government of these Islands published, August 31, 1839, an extensive decree, whose articles 18 and 19, relating to the marriages of Chinamen were couched in the following words:

"Art. 18. Any Chinaman that desires to marry an Indian or mestiza, must apply to the Government with his certificate of baptism, that of the bride, the consent of her parents or elders, the certificate of his being a christian and the certificate of the parish priest which justifies his instruction in the Catechism.

641 Art. 19. In view of these requirements, the license will be issued with all the provisions made for these cases in the decree of this Superiority of June 6, 1827."

14. These two articles were inserted literally in the decree of the Superior Government of the 20th of December, 1849 with the numbers 34 and 35, leaving, as is seen, the Chinese in complete freedom to marry the day following their baptism and registration among the Christians. But with time such extensive liberty must have proved to be excessive and the same Superior Government, under date of May 24, 1871, modified the same articles, introducing in their text three great innovations; one relating to the time that elapsed from baptism to marriage of the Chinaman, another to residence in the country, and the third as to good conduct during all this long period of time. They must apply, (says the decree of '71) to the Government, with their certificate of baptism, that of the bride, the consent of her parents or elders, the document which establishes that it is more than two years since he became a christian,

the certificate of residence in the country for a period of six years, that of having observed good conduct during this time, and that of the Parish Priest which authenticates his instruction in the catechism."

15. Finally, in order to put a stop to the concubinages, and corruption customary among the Chinese, during the two years which are required after baptism before the marriage, in view of the careful investigation, the General Government, issued on the 1st of December, 1874, a decree which, leaving in force the period of six years of residence in the country, revokes the two years counting from the baptism; here are the words of the reasoned decree.

"Result of the information given by the Direccion Civil. Considering that the said superior decree, treating of eliminating  
642 evils of doubtful realization, gives origin to certain acts contrary to sane morals: Considering that by the luminous information of the Excmo. é Ilmo. Sr. Archbishop, dated June 9, last past, the direful consequences of that remedy are set out in relief; Considering finally, that justice and sane reason requires a reformation of the laws or decrees which produce effects contrary to those intended when established, this Government, in compliance with the recommendations of the said Direccion General and the information of the Archbishop, decided to modify the said superior decree in regard to the period of time that inscription in the register of christians must be had, it remaining in force in the following form: "Article 34. Any Chinaman that desires to marry an Indian or mestiza, must apply to the government with his certificate of baptism, that of his bride, the consent of her parents or elders, the certificate of residence in the country for a period of six years, that of having observed good conduct during this time and that of the Parish Priest which authenticates his instruction in the catechism."

16. But attention must be called to the fact that these records are formulated and prepared by the Chiefs of provinces without the intervention of the Parish Priests, who must limit themselves to giving the sacramental entries which the Chief of the provinces requires of them. Meanwhile, and until the Chinaman does not present the license of the government, the Parish Priest and the Bishop must take absolutely no step toward the second ecclesiastical record, which must be formulated in the Ecclesiastical Court in which the proceedings will be the same as in all records for foreigners, with  
643 the specialty for Chinaman so diffusely explained in the eleventh Solita regarding the interpellation of the woman, and even the dispensation ad cautelam. The Parish Priests will proceed to the marriage of a Chinaman without this double permission of the Government and the Bishop.

Finally, your are advised, that by Art. 19 of the said decree of December 20, 1849, the Chinese residing and married in these Islands, in order to obtain permission to move to China need the consent of his wife.

#### 2nd. Foreigners.

17. The same conduct and forbearance must be observed by the Parish Priests and the Bishops in relation to other foreigners who

desire to contract marriages in the country. Time has also changed the ideas regarding this matter; and from excessive rigidity have gone to the other extreme of excessive liberty. All of title 27 of Book 9 of the Recopilacion de Indias, is reduced to establish a thousand obstacles, penalties, and other restrictions in order to avoid that any foreigner become established in the ultramarine dominions, until Ley 7 prohibits under penalty of death, trading or commerce, and Ley 5 not permitting those who obtained permission to negotiate in the country to go inland, and requiring that in order to obtain it and be known as a natural (native) for that purpose, nothing less than that they had lived in this kingdom or in the Indias for a continuous period of twenty years, and during ten of them having had a house and real property, and being married to a native, or daughter of a foreigner born in this kingdom or in the Indias . . ."

18. In order to recompense the fidelity of *Porta Rica* in the midst of the general agitation of our possessions in the American continent, S. M. the King Fernando VII, published, August 8, 1815, an extensive decree in order to increase immigration, Spanish and foreign, to that beautiful Isle; but according to the ideas of that time, he declared in Art. 8, that "all foreigners of friendly powers and nations, who intended to establish or were already established in the said Island, must make it appear by proper means to the Government thereof, that they professed the Roman Catholic Religion, and without this indispensable circumstance they will not be permitted to reside there . . ." And the same in identical terms is directed in Art. 10 of another Royal Decree issued for Cuba, October 18, 1817; although in the first of the variations and additions made for Cuba, the Superior Government thereof was charged "to dispense with so many formalities in the letters of naturalization" and in the 4th "to bear well in mind that (among the remedies) to facilitate matrimony in the colonies, designating the passages whereon women were to be found . . ."

19. These two sovereign dispositions were not extended here until November 30, 1857, during which interval was issued: 1st, the order of the Regency of the 14th of August, 1841, authorizing the Superior Governor of these Islands to grant permission of residence to foreigners; but temporarily until Royal approval; 2nd. The Royal Order of January 2, 1844, in Art. 2 of which it is declared: "that the ratification or an-ulling of the temporary permission granted corresponds to the Ministerio de Marina, Comercio, ó Gobernacion de Ultramar: and continuing in force by Art. 3, the prohibition "to foreigners to pass into the interior of these provinces," in accordance with Leyes 4 and 5 of the *Codigo de Indias* already referred to; and 3rd. The Royal Order of the 5th of October, 1853, art. 1 of which declared: "that in the future V. E. and the successors in your position may "grant permission to foreigners to reside and gain residence in these Islands subject to the provisions which govern in the matter, and without necessity of obtaining Royal approval."

645 Later came the Royal Order of the 30th of November, 1857, extending to these Islands the Royal Orders of 1815 and 1817, already mentioned, and finally the Royal Order of the 15th

of July, 1863, declaring that "in order that in the future there will be no difficulty regarding the preparation of these records, until new legislation is established, it is the will of S. M. that they be prepared in accordance with the provisions of the said Royal Order of the 30th of November, 1857 . . ."

From all of which it appears, that the Parish Priest must not proceed to aut-orize the marriage of any foreigner without first having the license of residence in the country given by the Governor-General, and also the authorization in writing of the Bishop in whose Place the proceedings as to the state of being single and free must be held.

It is a true copy of its original.

(Sgd.)

ROSADO, SANZ & OPISSO,  
LEDESMA Y SUMULONG,  
*Attorneys for the Defendants.*

It is a true copy of its original.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

646

(Title of the Case Omitted.)

*Decision.*

This case is now before the court for trial upon a complaint by the plaintiffs, as heirs of one Sy Quia, later known as Vicente Romero Sy Quia, for a discovery by the defendants of all property of which the said Sy Quia died seized or possessed, coming into their possession or control, and of the rents and profits thereof since the death of said Sy Quia; for the appointment of a receiver for all the property disclosed upon such discovery, and of the said rents and profits thereof; for judgment that the plaintiffs be declared the only heirs of said Sy Quia deceased, and as such are the owners and entitled to the possession of all said property, and the said rents and profits thereof; and that the defendant have been holding said property and rents and profits thereof for the use and benefit of the plaintiffs; and for such other relief as may seem just and equitable.

The defendants answering allege that the said Sy Quia was an infidel Chinaman, resident in the Philippine Islands long before the year 1852, in which year he was converted to Christianity and was baptized, and on the 9th day of June, 1853, was joined in lawful marriage to Petronila Encarnación, a native woman of the Philippine Islands, and that the two thus joined continuously maintained their conjugal domicile in the Philippine Islands until the death of said Sy-Quia on January 9th, 1894; that at the time of the said marriage said Sy Quia had no property and Petronila Encarnación brought a small amount to the marriage contract, and that after the marriage by their labor and industry they accumulated a great amount of property; that of the marriage were born three male chil-

dren named Gregorio, Pedro and Juan and two female children named Apolinaria and Maria; that Apolinaria died single in 647 1900, leaving as her only heir her mother, the said Petronila, and that Maria died before her father Sy Quia, leaving the defendant Generoso Mendoza as her sole heir; that Sy Quia died intestate in the year 1894, and the children as aforesaid were declared his heirs under the then existing law, and as such entered upon their inheritance from Sy Quia, and have been in quiet and peaceful possession continuously since and generally deny all the other allegations of the complaint.

The defendant Petronila Encarnación died after the commencement of the action, and the administrator of her estate, the defendant Pedro Sy Quia, was substituted as defendant in her place.

The plaintiff Sy Jui Niu, died after the commencement of this action, and the guardian of her only child Sian Han, Mr. C. W. O'Brien, was substituted as plaintiff in her behalf.

Mr. W. H. Bishop and Mr. C. W. O'Brien appeared in behalf of the plaintiffs; Srs. Rosado, Sanz and Opisso appeared for the defendants Pedro Sy Quia and Juan Sy Quia; Srs. Ledesma, Sumulong and Quintos appeared for the defendant Gregorio Sy Sy Quia; and Sr. Mariano Legaspi for the defendant Generoso Mendoza y Sy Quia.

A great mass of testimony has been presented, taken before this court, and upon commission in China and other places in the Philippine Islands.

There is practically no conflict in the evidence received except such as possible may be drawn from inference, and I find the following facts undoubtedly established:

That Sy Quia, however his name may have been pronounced or spelled by different persons (to me as spoken by Chinese witnesses appearing before me the name sounded as though it should 648 be spelled Sy Quienh), was born in China in 1822, a subject of the Chinese Empire;

That when about 12 years of age he came to the Philippine Islands and worked for his uncle until about the age of 25 years, mostly in Manila;

That when about 25 years of age he returned to China and in the year 1847 was lawfully married to Yap Pua Niu, a Chinese woman, under the laws and customs of China;

That he remained about 4 years in China and two male children were born of that marriage named Sy Bi (Mi) Bo and Sy Bi (Mi) Git;

That the said Sy Bi (Mi) Bo was lawfully married to Ho Him Niu, a Chinese woman, about 1870, and from this marriage two children were born, one male who died in infancy, and the other a female named Sy Jui Niu, originally one of the plaintiffs in this case who has since its commencement died leaving her only child and heir, Sian Han, as plaintiff in her stead, represented by her guardian, C. W. O'Brien; and that when the male child of said Sy Bi (Mi) Bo died he immediately adopted in accordance with the laws and customs of China, a Chinese male infant named Sy



Yoc Chay, one of the plaintiffs herein, who still survives and resides in Manila, and has done so for a long time;

That the said Sy Bi (Mi) Git was lawfully married about 1871 in China to a Chinese woman named Yap Su Niu, and from such marriage there was born one male child named Sy Yoc Leng and one female child named Sy Chua Niu, both plaintiffs in this action;

That said Sy Quia after returning to China from the Philippine Islands, as before stated, and remaining there about 4 years, came again to the Philippine Islands and went to Vigan to reside, and

649 was there converted to and adopted the Christian religion, and was baptized under the rites of the Holy Roman Catholic

Church, in 1852, and prefixed to his name the name Vicente Ruperto Romero, and later was married under the name of Vicente Romero Sy Quia, under the rites of the same Church in 1853, to the defendant Petronila Encarnación now represented by the Administrator of her estate;

That from this marriage there were born three male children named respectively Gregorio Sy Quia, Pedro Sy Quia, and Juan Sy Quia, defendants herein, and two female children named respectively Apolinaria and Maria, all of which children were legally recognized and treated by Sy Quia as his children;

That Apolinaria died single, intestate, in the year 1900 without issue and leaving said Petronila Encarnación, her mother, formerly defendant herein, as her sole heir;

That the said Maria died intestate before her father Vicente Romero Sy Quia, leaving one male child named Generoso Mendoza her sole heir, who is one of the defendants herein;

That shortly after the marriage of Vicente Romero Sy Quia and Petronila Encarnación they came from Vigan to Manila to reside, and while so residing here the said Sy Quia's Chinese wife, Yap Pua Niu, came to Manila and resided for a time, and while she did not live with Sy Quia in the same house he provided and cared for her as his wife and she was so treated;

That both Vicente Romero Sy Quia and Petronila Encarnación, while living, recognized Sy Yoc Chay and Sy Yoc Leng while they resided in Manila, as grandchildren of Vicente Romero Sy Quia and provided for them as such; Petronila Encarnación delivering to Sy Yoc Lieng on two different occasions money amounting to 7,000 pesos, and Vicente Romero Sy Quia seems to have recognized the other plaintiffs, Sy Jui Niu and Sy Chua Niu, who lived in China, as his grandchildren;

650 That when Vicente Romero Sy Quia and Petronila Encarnación were married, Sy Quia had some property, and later Petronila Encarnación appears to have brought into the marriage contract 5,000 pesos;

That when Vicente Romero Sy Quia died in 1894 he and Petronila Encarnación had accumulated a large property, and the defendants other than Petronila Encarnación were declared heirs to his interest in the property on January 26th, 1894;

That Petronila Encarnación continued the administration of the



whole property until August 3rd, 1900, when it was distributed under order of the Court to herself and the other defendants herein as heirs thereto, any rights which the plaintiffs herein might have had therein being overlooked or disregarded, and the defendants never recognized the plaintiffs as the legal heirs of Vicente Romero Sy Quia;

That Sy Bi (Mi) Bo died before his father, Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, his adopted son Sy Yoc Chay, one of the plaintiffs herein, and Sy Jui Niu who has since died leaving her only child Sian Han as her sole heir, one of the plaintiffs herein represented by C. W. O'Brien her guardian;

That Sy Bi (Mi) Git died before his father Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, two of the plaintiffs herein, Sy Yoc Leng and Sy Chua Niu;

That Vicente Romero Sy Quia died on January 9th, 1894, leaving as his descendants by his Chinese wife the persons hereinbefore described, and his children by Petronila Encarnación as hereinbefore described;

That Petronila Encarnación died on June 6th, 1906, after the commencement of this action, and the administrator of her estate

Pedro Sy Quia was substituted as defendant in her behalf;

651 I have been unable to find any law statute or otherwise which is entirely or precisely applicable or adaptable to all the conditions and facts existing in this case, and must resort to what may be new rules in order to reach conclusions which will not work an injustice to the persons interested.

I am unable to concede plaintiffs' claim, presented in argument, that Sy Quia at the time of his death was a subject of the Empire of China, so that his property would have to be distributed in accordance with the laws of China exclusively, but am of the opinion that from his long residence here, under the conditions existing, the property accumulated by him here is subject to distribution under the laws existing here, taking into consideration certain laws of China in relation to the rights of the heirs living there.

I am unable to concede defendants' claim, made in argument, that Sy Quia while not believing in polygamy still believed in the right of concubinage, and for that reason his marriage contracted in China was polygamous, and against good morals and cannot be recognized here.

On the contrary marriages contracted in a foreign country under the laws and customs of that country are held legal and binding here unless one or both of the contracting parties had left here and gone to a foreign country to contract marriage there, in order to avoid provisions of the law here, or for other reasons were incapacitated to contract marriage.

The conclusion is that Sy Quia's marriage in China was lawful, and the issue of that marriage are legal heirs to his estate;

That if he had married Petronila Encarnación in accordance with the customs of China, after his marriage to his Chinese wife,  
652 the marriage would have been lawful there, and she would have become his concubine and as such entitled to certain

rights and her children by him would have been heirs to his estate, but his marriage to her here in the Philippine Islands was unlawful, and her children by him could become heirs to his estate only upon having been legally recognized by him as his children;

That Sy Quia and Petronila Encarnación having entered into a marriage contract, which she must have known was unlawful, though perhaps believing that it was permissible and which she believed to be lawful, thinking him to be an unmarried man, did not fully attain the rights as to each other as man and wife, so that the property which they jointly earned was gains under the marriage contract, and so that upon the death of either the other would have usufructory rights in the property of the one deceased, but the marriage contract must be treated as a partnership agreement between them. Sy Quia would not be entitled to all the property earned by both while living together, as perhaps he would if no marriage ceremony had been performed and business had been transacted and property obtained in his name;

That having entered upon a life together as partners, with probably equal capital, and each giving service they would be entitled to an equal division of the proceeds of such partnership, and their labor and all such proceeds being in the Philippine Islands, when Sy Quia died, Petronila Encarnación was entitled to one-half of all the property of which he died seized here;

That because the marriage ceremony between Vicente Romero Sy Quia and Petronila Encarnación was not lawful Petronila Encarnación may not be deprived of her share of the gains made under the marriage, such as it was, while it existed, neither could  
653 Vicente Romero Sy Quia, nor can his heirs now, claim all the gains made under the contract between Vicente Romero Sy Quia and Petronila Encarnación, whatever it may be;

That Vicente Romero Sy Quia having entered into an unlawful marriage here after his marriage in China could not deprive the children of that marriage in China of their rights to his estate even here in the Philippine Islands;

That the living heirs to the estate of Vicente Romero Sy Quia, consisting of one-half of the property of which he died seized, are Sy Yoc Chay and Sian Han, respectively his grandson by his son Si Bi (Mi) Bo and his great granddaughter through his son Sy Bi (Mi) Bo; and granddaughter Sy Jui Niu; and Sy Yoc Leng and Sy Chua Niu his grandchildren through his son Si Bi (Mi) Git, as his legal descendants; and Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, his sons; Generoso Mendoza Sy Quia his grandson through his daughter Maria; and the heirs of Petronila Encarnación as heirs of Apolinaria Sy Quia his daughter, as his natural descendants legally recognized; and that the heirs of Petronila Encarnación are entitled to the other half of that estate;

That the shares of each in the whole estate are: the plaintiffs Sy Yoc Lieng 1/18th, Sy Yoc Chay 1/18th, Sy Chua Niu 1/18th, C. W. O'Brien as guardian of Sian Han 1/18th, and the defendants Pedro Sy Quia 1/18th, Juan Sy Quia 1/18th, Gregorio Sy Quia, 1/18th, Generoso Mendoza Sy Quia 1/18th, and the heirs of Petron-

ila Encarnación represented by Pedro Sy Quia the administrator of her estate, 10/18th;

That Petronila Encarnación having administered the whole estate of which Vicente Romero Sy Quia died seized from the time of his death until the distribution thereof in 1900, as hereinbefore set forth, the estate so distributed must be taken and considered as such whole estate;

654 That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia and Petronila Encarnación, now represented by her administrator Pedro Sy Quia, having taken possession in individual parts of the whole estate, and the whole estate being unknown to the plaintiffs, the plaintiffs are entitled to a disclosure from said defendants of all the property received by them and an accounting of the rents and profits thereof since it was so received;

That it appears that the plaintiffs have an interest in the property which is the subject matter of the action, and that the property is in danger of being lost, one of the defendants, having a portion of the property in his possession, having been declared a spendthrift and a guardian appointed for him, it appears to the court that the appointment of a receiver is the most convenient and feasible means of preserving and administering the property which is the subject matter of litigation.

Let judgment be entered declaring that the plaintiffs Sy Yoc Leng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, and the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza y Sy Quia, and the heirs of Petronila Encarnación, deceased, represented by one of the defendants Pedro Sy Quia as administrator of her estate, are joint heirs to the estate of Vicente Romero Sy Quia, deceased, consisting of one-half of the whole estate distributed under the judicial order of the Court of 1st. Instance of the District of Quiapo under date of August 3rd, 1900, in the following ratio:

Sy Yoc Lieng 1/9th, Sy Yoc Chay 1/9th, Sy Chua Niu 1/9th, C. W. O'Brien as guardian of Sian Han 1/9th, Pedro Sy Quia 1/9th, Juan Sy Quia 1/9th, Gregorio Sy Quia 1/9th, Generoso Mendoza Sy Quia 1/9th, and the heirs of Petronila Encarnación represented by Pedro Sy Quia as the administrator of her estate 1/9th; and that  
655 the heirs of Petronila Encarnación, represented by the administrator of her estate Pedro Sy Quia, are jointly the owners of and entitled to the possession of the other half of the estate of which Vicente Romero Sy Quia died seized;

That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia and Generoso Mendoza y Sy Quia and Pedro Sy Quia as administrator of the estate of Petronila Encarnación and representing her heirs, make disclosure of all the property distributed to them respectively under the said judicial order dated August 3rd, 1900;

That the said defendants each render an accounting of the rents and profits of all the property received by them respectively under said judicial order, since the said property was delivered to them, provided that if it shall appear upon disclosure as before adjudged

the property distributed to Petronila Encarnación in her own right shall not exceed one-half of the whole of the estate of which Vicente Romero Sy Quia died seized, then accounting in her behalf for the rents and profits will not be necessary.

That a receiver be appointed to be hereafter named upon giving bond to be hereafter fixed, to take possession of the whole estate disclosed as hereinbefore required, provided that if upon the disclosure it shall appear that the property distributed to Petronila Encarnación in her own right shall not exceed one-half of the whole estate of which Vicente Romero Sy Quia died seized, then that he shall take possession of, as such receiver, only the other half distributed to the other persons making disclosure.

No Costs will be taxed.

Manila, P. I., February 26th, 1908.

A. S. CROSSFIELD, *Judge.*

354

(Heading and Title Omitted.)

The defendant Pedro Sy Quia personally and as administrator of the estate of Doña Petronila Encarnación, and the defendant Juan Sy-Quia personally, except to the decision of the Court in the above entitled cause, and announce their intention to prepare in the ordinary way a Bill of Exceptions, without prejudice to asking for a new trial.

Manila, February 27, 1908.

ROSADO, SANZ & OPISSO,

*Attorneys for the Defendant Pedro Sy Quia, Estate  
of Petronila Encarnación, and Juan Sy Quia.*

Received copy:

C. W. O'BRIEN,

*Attorneys for Plaintiffs.*

Feb. 27, 1908.

Filed on the 27th of Feb. 1908 at 11.20 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

(Heading and Title Omitted.)

Come now the plaintiffs and except to the judgment heretofore rendered in the above entitled action on the 26th day of February, 1908.

W. H. BISHOP,

C. W. O'BRIEN,

Per W. H. B.,

*Attorneys for Plaintiffs.*

(Heading and Title Omitted.)

657

(Title of the Case Omitted.)

Personally appeared before me, W. H. Bishop, a Notary Public, duly commissioned and sworn in and for the city of Manila, Philippine Islands, C. W. O'Brien who first having been sworn in due form stated; that on the 29th day of February, 1908, he delivered a copy of the motion of Lawyer's lien and assignment, in the above entitled case, to Pedro Sy Quia, personally, a copy of the same to Pedro Sy Quia, as Administrator of the estate of Petronila Encarnación, a copy of the same to Pedro Sy Quia, as guardian of Generoso Mendoza Sy Quia, a prodigal, and a copy of the same to Juan Sy Quia, personally, at the home of each in the city of Manila.

That he explained the purpose of the notice and the Lawyer's lien and assignment to each of them; further stating that personal services upon them was required by law in order to make the same valid.

C. W. O'BRIEN.

Subscribed and sworn before me this 29 day of February, 1908. The said C. W. O'Brien exhibited to me Cedula F 1292637, dated at Manila, P. I., the 7th day of January, 1908.

[NOTARIAL SEAL.]

W. H. BISHOP.

Notary Public.

Commission expires Dec. 31/08.

(20c Internal Revenue Stamp.)

658

(Title of the Case Omitted.)

*Notice of Lawyers' Lien and Assignment.*

Come now W. H. Bishop and C. W. O'Brien and hereby give notice to the Court and to each of the defendants, Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia and Pedro Sy Quia as executor of Petronila Encarnación and Pedro Sy Quia as guardian of Generoso Mendoza Sy Quia, and say that they, the said W. H. Bishop and C. W. O'Brien the undersigned, have been the Attorneys of plaintiffs named in the above caption, since the 7th day of April, 1903, and that said services consisted in the bringing of an action, on behalf of the plaintiffs named in the caption thereto, to cover their interests and the interest of each of them as heirs of Vicente Romero Sy Quia, deceased; that to secure the payment to said Attorneys for their services was agreed between the said plaintiffs and said attorneys that for the services rendered and to be rendered by said attorneys they should receive thirty five (35%) per cent of any sum or sums or property realized or recovered by plaintiffs out of said estate as well as the payment of all disbursements made by the undersigned, and should have a lien upon the interests of plaintiffs in said estate to secure the same; that the said attorneys

have expended a considerable sum of money besides much time in the preparation and trial of said cause and that they are entitled to and have a lien on the portion due and to be realized by the plaintiffs above named, out of said estate for services rendered; and that the undersigned do hereby give notice of their lien to the same extent, upon all judgments and decrees for the payment of money, and executions issued in pursuance of such judgments and decrees which they have secured for the plaintiffs in said litigation.

February 27th, 1908.

W. H. BISHOP,  
C. W. O'BRIEN,  
By W. H. B.

659

(Heading and Title Omitted.)

Comes now the defendant Gregorio R. Sy Quia, and respectfully states to the Court.

That he excepts to the decision filed in this cause, of which he was notified only this day.

Manila March 2, 1908.

(Sgd.)

RAMON FERNANDEZ.

C. W. O'BRIEN,  
W. H. BISHOP,

Per I. A. S. J.

(Heading and Title Omitted.)

To the plaintiffs or their attorneys Messrs. Bishop and O'Brien.

GENTLEMEN: You are hereby notified that next Saturday, March 7, 1908, at 8:00 A. M., or as soon thereafter as this representation can be heard it will pray the court to annul the sentence and celebrate a new trial for the following reasons:

1. Because the sentence is contrary to law.
2. Because the facts declared proved by the sentence are openly and manifestly contrary to the weight of the evidence.

Respectfully,

RAMON FERNANDEZ.

Rec'd Copy M'ch 31, '08.

W. H. BISHOP,  
C. W. O'BRIEN.

660

(Heading and Title Omitted.)

The defendant, Pedro Sy Quia, personally and as administrator of the estate of Doña Petronila Encarnacion, and the defendant Juan Sy Quia, personally, pray the court to annul the decision dictated in this case, and ask for the celebration of a new trial.

This motion is based on:

- I. That the evidence is insufficient to sustain the decision in favor of the plaintiffs.



II. That the findings of fact are openly and apparently contrary to the weight of the evidence.

III. That the decision is contrary to law.

Manila, February 27, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received copy March 3, 1908.

(Sgd.) C. W. O'BRIEN.

(Heading and Title Omitted.)

*Motion for Appointment of Receiver.*

Comes now the Plaintiffs and moves the Court to appoint a receiver in the above entitled action as provided for in the judgment entered in said action upon February 26, 1908.

W. H. BISHOP,

C. W. O'BRIEN,

*Attorneys for Plaintiffs.*

661

(Title of the Case Omitted.)

*Exception to Conclusions of Law and Motion for Modification of Decision.*

Come now the plaintiffs by W. H. Bishop and C. W. O'Brien, their attorneys, and renewing their exception to the decision heretofore rendered upon the 26th day of February, 1908, do hereby specially except to the conclusions of law made in said decision of February 26, 1908, and hereby move the Court to modify said judgment, and conclusions of law by making the same conform to the findings of fact in the following particulars:

(a) That judgment be entered declaring the plaintiffs Sy Yoc Lieng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, as the sole and only heirs of Vicente Romero Sy Quia, deceased.

(b) That the said plaintiffs Sy Yoc Lieng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, be entitled to receive the whole of the estate left by the deceased Vicente Romero Sy Quia, and distributed under the judicial order of the Court of First Instance of Manila, under date of August 3rd, 1900.

(c) That Petronila Encarnación, deceased, her administrator, her children, and heirs be adjudged and decreed to have no interest in the estate of Vicente Romero Sy Quia, deceased.

(d) That Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia, Pedro Sy Quia as administrator of the estate of Petronila Encarnación, deceased, and Pedro Sy Quia as guardian of Generoso Mendoza Sy Quia, a prodigal, be declared and adjudged not heirs of Vicente Romero Sy Quia, deceased, and as having no interest in the estate of said deceased.



(e) That the receiver is appointed under said decision of February 20, 1908, in the above entitled action, be authorized and required to take possession of all the property left by the deceased Vicente Romero Sy Quia, and especially of the property distributed under the judicial order of August 3rd, 1900, and the rents and profits thereof.

(f) That said judgment be further modified by allowing said plaintiffs their costs in the above entitled action, and an accounting for all of said property.

March 3, 1908.

W H BISHOP

C W O'BRIEN

*Attorneys for Plaintiffs*

663

(Heading and Title Omitted.)

The undersigned, in representation of Generoso Mendoza Sy Quia states:

That yesterday he was notified of the decision dictated by this Honorable Court in the above entitled cause.

That he excepts to the said decision.

Manila, February 4, 1908.

(Sgd.)

M. LEGASPI FLORENDO

(Heading and Title Omitted.)

The undersigned states:

I. That on the 3rd instant (he deponent was notified of the decision dated the 28th of February, 1908) entered in the above entitled cause.

II. That the evidence presented at the trial does not sustain sufficiently the decision of the Court in that which relates to the plaintiffs.

III. That said decision is openly contrary to law.

Therefore, petition is made to the Court to annul said decision and in consideration of the grounds above stated order a new trial of the said cause.

Manila, February 4, 1908.

(Sgd.)

M. LEGASPI FLORENDO,

*Attorneys for G. M. Sy Quia.*

(Heading and Title Omitted.)

The defendants Pedro Sy Quia, Juan Sy Quia, Gregorio Sy Quia, Generoso Mendoza y Sy Quia, and Pedro Sy Quia, as administrators of the estate of Petronila Encarnacion, except to the decision of the Court denying the motion for a new trial prayed for by the said defendants, and pray that note of this exception be made.

Manila, March 7, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Morcra, Manila.*

(Sgd.)

M. LEGASPI FLORENDO

(Sgd.)

RAMON FERNANDEZ

Filed on the 7th day of March, 1908, at 12 A. M.

(Sgd.)

J. McMICKING, *Clerk.*

(Heading and Title Omitted.)

Come now the plaintiffs, by their attorneys, and except to the decision of the Court rendered in this case on March 7, 1908 denying the motion of the plaintiffs, to modify the conclusion of law and the judgment, and give notice of their intention to appeal to the Supreme Court and to perfect a bill of exceptions for review of said case.

Manila, P. I., March 11, 1908.

W. H. BISHOP,

C. W. O'BRIEN,

*Attorneys for the Plaintiffs.*

Received copy, March 11, 1908.

ROSADO, SANZ & OPISSO.

CARLOS LEDESMA.

RAMON FERNANDEZ.

M. LEGASPI FLORENDO.

(Heading and Title Omitted.)

*Order.*

This matter is before the Court for the hearing of the petition of the Plaintiffs in which they pray for the modification of the decision rendered in this case. After hearing the parties through their respective attorneys, the petition is denied. To all of which the plaintiffs except.

Manila, P. I., March 7, 1908.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

(Heading and Title Omitted.)

*Order.*

This case being before the Court for the hearing of the motion of the defendants in which they ask for the celebration of a new trial, after hearing the parties through their respective attorneys, the motion is denied. To this ruling the defendants Pedro, Gregorio, Juan Generoso and Petronila Encarnacion by her administrator, and each of them by their respective attorneys takes exception.

Manila, P. I., March 7, 1908.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

686

(Title of the Case Omitted.)

Personally appeared before me — — —, who being first duly sworn upon oath states: That upon the 10 of March, 1908, he deliv-



*Hendricks v. The United States*

*Case*

The case is before the Court for the hearing of the motion proposed in order to the appointment of a receiver of the property and accounts, with the decision rendered by the Court on the 29th of February, 1906.

Mr. W. B. Fisher appeared for plaintiff, and for those appeared for defendant, Mr. J. C. Quinn and Mr. J. C. Quinn in representation of General Hendricks, and Mr. J. C. Quinn in representation of General Hendricks.

After viewing the matter, although they respectively were not asked any questions, the Court, in consideration of the different positions proposed for the appointment of receiver, found of the opinion, that it is in the interest of justice to appoint a receiver of the property and accounts, with the decision rendered by the Court on the 29th of February, 1906.

In this matter of the motion of the plaintiff, Mr. J. C. Quinn and Mr. J. C. Quinn, who are the only persons who have appeared in the case, have not appeared in the case of the plaintiff, and the Court, in consideration of the different positions proposed for the appointment of receiver, found of the opinion, that it is in the interest of justice to appoint a receiver of the property and accounts, with the decision rendered by the Court on the 29th of February, 1906.

Wm. B. Fisher, Jr., 1906.

Secy

W. B. FISHER, JR., Secy.

*Hendricks v. The United States*

*Case*

The case is before the Court for the hearing of the motion proposed in order to the appointment of a receiver of the property and accounts, with the decision rendered by the Court on the 29th of February, 1906. (60) *Hendricks v. The United States*

Mr. J. C. Quinn appeared for plaintiff, and for those appeared for defendant, Mr. J. C. Quinn and Mr. J. C. Quinn in representation of General Hendricks, and Mr. J. C. Quinn in representation of General Hendricks.

After viewing the matter, although they respectively were not asked any questions, the Court, in consideration of the different positions proposed for the appointment of receiver, found of the opinion, that it is in the interest of justice to appoint a receiver of the property and accounts, with the decision rendered by the Court on the 29th of February, 1906.

It is ordered that a receiver be appointed to receive the property and accounts, with the decision rendered by the Court on the 29th of February, 1906. *Hendricks v. The United States*

Wm. B. Fisher, Jr., 1906.

Secy

W. B. FISHER, JR., Secy.

(Heading and Title Omitted.)

The defendants Pedro Sy Quia and Juan Sy Quia, hereby manifest to the Court that only on this date were they notified of the order dictated by this Court on the 17th of March, 1908, appointing a receiver, and for this reason they had not been able to present their exception thereto before this time. But now they except to said order and pray that same be made of record.

Manila, March 26, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys for Pedro and Juan Sy Quia.*

Filed on the 26th day of March, 1908. J. McMicking, Clerk.

670

(Title of the Case Omitted.)

I, Gregorio Sy Quia, having been appointed judicial receiver of the property of the defendants, do solemnly swear that I will faithfully fulfill the duties of my trust as such.

GREGORIO R. SY QUIA.

Subscribed and sworn to before me on this 27 day of March, 1908, by Gregorio Sy Quia, who exhibited cedula No. F 442213 issued at Vigan on the 7 day of Jan'y, 1908, by the Collector of Internal Revenue.

J. McMICKING, *Clerk.*

671

(Heading and Title Omitted.)

To the defendants or their attorneys:

By these presents you are notified that on Saturday, the 28th instant at eight o'clock in the morning or as soon after that as this representation can be heard, the plaintiffs will ask the Court for permission to substitute the last three pages of the plaintiff's Bill of Exceptions, presented on the 18th instant, with the three pages attached to this notification, and to approve the Bill of Exceptions.

Manila, P. I., 26th of March, 1908.

W. H. BISHOP,  
C. W. O'BRIEN,  
*Attorneys for Plaintiffs.*

We received copy this day March 27, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,  
M. LEGASPI FLORENDO,  
C. LEDESMA,  
*Attorney for Gregorio Sy Quia.*

NOTE.—Attached to this notice there is a copy of the pages Nos. 11, 12 and 13 of Plaintiffs' Bill of Exceptions which are omitted here.

672

(Heading and Title Omitted.)

The plaintiffs hereby present the attached bill of exceptions, which is not complete because the orders have not yet been dictated, and when they are dictated they ask that they be attached to this bill of exceptions, and inasmuch as the defendants' bill of exceptions contains the same proceedings of the plaintiffs here presented, pray that the two be united in such a manner as to include all the exceptions and motions which both parties respectively desire to forward to the Supreme Court.

Manila, P. I., March 18, 1908.

(Sgd.)

W. H. BISHOP,  
C. W. O'BRIEN,  
*Attorneys for Plaintiffs.*

Received copy this 19th day of March, 1908. .

(Sgd.) M. LEGASPI FLORENDO,  
ROSADO, SANZ & OPISSO.  
C. LEDESMA.

Filed this 19th day of March, 1908, at 10.25 A. M. (Sgd.) J. McMicking, Clerk.

673

(Heading and Title Omitted.)

Comes now the defendant Gregorio Sy Quia, and complying with the order of this Court, dated the 17th instant, declares that the property which corresponded to the deponent in the distribution made according to the order dated August 3, 1900 is the following:

(a) Urban property consisting of a house of strong material with the lot on which it is built, situated on Calle Anloague, of the suburb of Binondo; this property was formerly designated by the num. 19, and at present by the numbers 115, 117, 119, and 121, having a superficial area of 438 square meters and 9 square centimeters, and is bounded on the right of its entrance by the house and lot of Sr. Paterno; on the left by the house and lot of the brother Chuidian, and at the back by the house and lot of Sr. Roxas. Monthly rental P240.00.

(b) Two urban properties consisting of 9 accessories of strong material and the lot on which they are built, situated on Calles San Jacinto and Nueva, of the suburb of Binondo and formerly designated by the num. 43, and at present by the numbers 179, 181, 183 and 185, and those on Calle Nueva by the ancient num. 40 and by the numbers 140, 142, 144, 146, and 148 modern system. The property adjoins Calle San Jacinto, on the right of its entrance, Callejon de Quiñones, at the left with the property of the heirs of D. Mariano Roxas, and on the back by the part of this property which faces Calle Nueva. The part of the property which faces Calle Nueva, adjoins on the left of its entrance with the Callejon de Quiñones, on the right with the property of the heirs of D. Mariano Roxas, and at the back with the part already described. Monthly rental P250.00. The



said property has been improved and repaired in accordance with the orders of the Police and Health, the said improvements costing P5,000.00.

(c) Urban property consisting of a house and three accessories of strong material with the lot on which they are built, situated  
674 on Calle Jaboneros of the District of Binondo, formerly designated by the num. 11, and at present by the numbers 175, 177, 179 and 181 modern system. Bounded on the right entering by the house of D. Alfonso Chuqui, on the left by the house of Doña Dolores Sanchez, and at the back by the yard of the house of Doña Leoncia Conchú. This property has been totally transformed into a house of two stories with six doors, the improvements having cost P12,000.00. Present rental P200.00 per month.

(d) Thirteen thousand nine hundred and nine pesos and seventy-five centimos (P13,909.75) in cash all of which was invested in the said improvements of the properties (b) and (c) the deponent having to add thereto from his own personal funds the necessary amount to complete the sum of the two said improvements.

Manila, March 30, 1908.

(Sgd.)

RAMON FERNANDEZ.

Received copy.

(Sgd.) C. W. O'BRIEN.

Filed the 31st day of March, 1908, at 9.15 A. M.

(Sgd.)

J. McMICKING, Clerk.

The defendants Pedro and Juan Sy Quia, present the list of property which they inherited from their father D. Vicente Ruperto Romero Sy Quia, in the following form:

#### Pedro Sy Quia.

1.o Thirty-five thousand nine hundred and fifty-four pesos and sixty-three centimos/ (P35,954.63) in cash.

2.o Urban property consisting of a house of strong material with the lot on which it is built, situated on Calle Anloague of  
675 the suburb of Binondo, Judicial district and North demarcation of the Registry of Property of this Capital, and designated until recently by the No. 16 and at present by No. 118. This property adjoins on the right of its entrance with the house and lot of Don Lorenzo Alberto which was formerly that of Isabel Alberto; on the left with the house and lot of Don Carlos Palanca, which formerly belonged to Da. Ana Mauricio; and at the back with the house and lot of Don Mariano Limjap which was formerly of the Chinaman Antonio Tong.

3.o Urban property consisting of a warehouse and two accessories of two doors, and the lot on which they are built, designated formerly by the No. 11, and 186, 188 and 190 at present, and situated on Calle Jaboneros, District and Judicial part of Binondo of this Capital, North demarcation of the Registry of property; adjoins on the right



entering with the house of Da. Leoncia Conchú, on the left with the house of Don Juan Adriano and at the back with that of one Maria; having a superficial area of 168 square meters and 33 square centimeters.

4.o Urban property, consisting of a lot without any edifice, nor government police number, situated facing to the South on the Gran Divisoria or the Calzada de Tutuban now the Paseo de Azcarraga of the suburb and Judicial district of Tondo, Municipality of Manila, demarcation of the North District of the Registry of Property. The property adjoins on the right of its entrance with the testero called San Lazaro to the East; at present a part of the said esterillo being the lots of Don Jose Gomez and Don Juan Huertas, on the left to the West with the Callejon de Santa Monica, at present a Callejon without a name which leads to the barrio of Tutuban, and at the back to the North, with the lands which were of the Doctor Felipe Zamora and at present the property of Don Ildefonso Tambunting. In the document of adquisition it is said that the lot measures in front one hundred and five meters, lineal; following on the right of its entrance an inclination of one hundred and thirty-five degrees, the second side is found which measures seventy-one meters and fifty centimeters; continuing the third side with an inclination of one hundred and one degrees north which measures seventy-four meters; the fourth side in the same direction, eighty-three meters; the fifth side turning to the West one hundred and fifty-three meters; the sixth in direction of the front or South; twenty-six meters, the seven in direction of the West fifteen meters; the eighth to the South one hundred and eleven meters; forming a polygon of eight sides with an angle of one hundred and ten degrees and had a superficial area of twenty-four thousand and forty-four square meters. But from this parcel there has been expropriated by the Ayuntamiento of Manila a portion of six hundred and thirty five square meters on the East side, thus reducing the area of the remainder of the described lot to twenty-three thousand eight hundred and nine square meters.

5.o One account in participation in the steamer "San Joaquin" in the name of D. Pedro R. Sy Quia, for the sum of one thousand four hundred and forty-nine pesos. (1,449.00) 1,

*Juan Sy Quia.*

1. Nine thousand five hundred and fifty five pesos and twelve and five eighths centimos. (P9,555.12 $\frac{5}{8}$ ) in cash.

2. Nineteen thousand nine hundred and fifty four pesos and sixty three centimos. (P19,954.63) brought to collation by Don Juan Sy Quia, amount taken in advance on account of his legal share.

3. Urban property, consisting of a house of strong material with the lot on which it is built, situated on Calle San Jacinto of the suburb of Binondo, judicial section of Manila and North demarcation of the Registry of Property, and until recently designated by

the number 38 of the government police, and now by the No. 176. Bounded on the right of its entrance by the house and lot 677 of the widow of Don Cayetano Valenzuela, on the left by a parcel which was that of Don Vicente Romero Sy Quia, and is that which will be described next in No. 4, and at the back by the estero of San Jacinto.

4. Urban property consisting of a house of strong material with galvanized iron roof, and the lot on which it is built, situated on Calle San Jacinto, district of Binondo in this Capital, and North demarcation of the Registry of property, formerly designated by the No. 40 and at present by 184, adjoins on the right entering with that was the Callejon de Quinones, now closed, on the left by the house and lot of Don Ramon Mortera, and at the back with the estero of San Jacinto. The lot referred to measures four hundred and thirteen and thirty five hundredths square meters in area.

5. Urban property consisting of a warehouse of masonry work with galvanized iron roof, built on its own lot designated formerly by the No. 3 of the urban police and at present by No. 100 of the Calle de Espeleta, barrio of Sibacon of the Suburb of Santa Cruz of this City, judicial district of Quiapo and North demarcation of the Registry of Property. Adjoins on the right entering with the houses which face on the same street, property of Da. Augustina Medel; on the left with a lot walled in belonging formerly to Don Jose Reyes and now to the heirs of Don Benedicto Luna; and at the back by the warehouse and lot which face Calle Tetuan, property of Don Juan Generoso. The edifice occupies the whole area of the lot which measures a superficial area of two hundred and ninety-three and forty-sixth hundredth square meters.

Manila, 31 of March, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Filed on the 31st day of March, 1908, at 11.30 A. M.

J. McMICKING, *Clerk.*

678

(Heading and Title Omitted.)

Now comes Don Pedro Sy Quia, as guardian of Generoso Mendoza and states to the Court:

That no property has come into his possession in his capacity of guardian of Generoso Mendoza, but that he has received obligations declared by this Court in case No. 3494 to be paid when the distribution of the property of Doña Petronila Encarnacion is made.

Manila, March 31, 1908.

ROSADO, SANZ & OPISSO,

*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Filed the 31st day of March, 1908 at 11.30 A. M.

J. McMICKING, *Clerk.*

679

(Heading and Title Omitted.)

The defendants Pedro Sy Quia and Juan Sy Quia, except to the Order of this Court which is dated the 17th instant, in which these defendants are directed to file statements of their property, which order was stamped by the Clerk with the date of the 26th, and the defendants only on this date having learned of it.

Manila, March 31, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Filed on the 31st day of March, 1908, at 4.30 P. M.

J. McMICKING, *Clerk.*

The plaintiffs through their Attorneys except to the rendition of accounts presented on the 30th of March, 1908, by Gregoria Sy Quia, for the reason that said account is not exact nor complete and does not show the profits which corresponds to the property of the defendant Gregorio Sy Quia, and therefore pray the Court to reject said rendition of accounts and to require a rendition which is true and exact and which shows the rents, profits and inversion of the same.

Manila, P. I. April 1, 1908.

(Sgd.)

(Sgd.)

W. H. BISHOP,  
C. W. O'BRIEN,  
*Attorneys for Plaintiffs.*

Copy furnished to C. Ledesma Attorney for Gregorio Sy Quia April 1, 1908.

680

(Title of the Case Omitted.)

Come now the plaintiffs, by their attorneys, and object to the amendment of the Bill of Exceptions presented by Pedro Sy Quia and Juan Sy Quia, for the reason that the Bill of Exceptions does not state the facts, since at the time that said motion for the appointment of a receiver, and the motion for an accounting was made, and the ruling of the court relative thereto was made, said defendants Pedro Sy Quia and Juan Sy Quia were in court by their attorneys, Rosado, Sanz, and Opisso; and had full knowledge of the decision of the Court upon the said motions, and consented to the appointment of said receiver and to the order for the rendition of accounts.

And furthermore, the said defendants Pedro Sy Quia and Juan Sy Quia subsequently executed the bond for their co-defendant, the receiver, in the sum of four hundred thousand pesos (P400,000.00) which was approved by this court.

Manila, P. I. April 1st, 1908.

W. H. BISHOP AND  
C. W. O'BRIEN,  
*Attorneys for Plaintiffs.*

Received copy:

ROSADO, SANZ & OPISSO.

The defendant Generoso Mendoza y Sy Quita, presents the list of the property which he inherited from his grand father D. Vicente Ruperto Romero Sy Quita, in the following manner:

1. Eight thousand two hundred and sixty-three pesos and seventy-five and five eighth-centimos (P8,263.75 $\frac{5}{8}$ ) in cash.

2. Urban property consisting of a house of strong material and the lot on which it is built, situated on Calle San Jacinto, suburb and judicial district of Binondo, demarcation of the North District of this Capital, formerly designated by No. 47 and to-day with the No. 192, bounded on the right entering with the house and lot of Don Manuel Benigno Reyes; on the left with the house and lot of the heirs of Don Manuel Perez; and at the back by the house and lot which fronts on Calle Nueva, which formerly belonged to the deceased Don Arístido Estrada. The lot measures eleven meters and eighty-five centimeters frontage, 8 meters and 10 centimeters on the right side, 13 meters and 47 centimeters on the left and at the back which is a broken line composed of seven sections measuring from right to left, the first five meters, the second 2 meters and 17 centimeters; the third 3 meters and 10 centimeters, the fourth 5 meters and 20 centimeters, the fifth, 2 meters and 30 centimeters, the sixth 2 meters and 12 centimeters and the seventh 1 meter and 50 centimeters, all of which measurements which a superficial area of 135 and 20 hundredths square meters.

3. Urban property consisting of a house and the lot on which it is built, situated on Calle Cabildo, Intramuros, of this Capital, designated until recently by the No. 57 and now by the No. 322, with naming the block or section and bounded on the left entering by that of Don Jose Grey, on the right by Calle Victoria, and at the back by the house of Don Antonio Laperente. Measures 14 meters and 45 centimeters in front, by 36.71 in depth or a superficial area of 520.46 square meters approximately.

4. Urban property consisting of a lot on which there is constructed a house of strong material formerly designated by the No. 54 and at present by the No. 147, and situated on Calle Nueva of the suburb of Ermita, of this City, Judicial district of Intramuros and Southern demarcation of the Registry of Property. Bounded on the right entering by a lot whose owner is unknown, on the left by a lot of the property of Doña Benigna Lim Chayco and at the back by the lots of Don Manuel Villava and Doña Eulalia Macapagal. The whole lot described measures superficially nine hundred and seventy and seventy-four hundredths square meters, and the part occupied by the house measures 184.54 square meters.

5. Urban property consisting of a building lot without government police number, name of the block nor section, situated facing Calle Nueva of the suburb of Ermita of this City, which measures 17 meters and 62 centimeters in front by 15 meters and 95 centimeters depth, or a superficial area of 281.10 square meters, adopting the form of a quadrilateral, and bounded on the right entering by the lot of Doña Maria del Rosario, on the left by an alley without

a name a public highway when enlace Calles Nueva and Real and at the back by a lot and small house of Don Julio Rivera.

6. Urban property consisting of a house of strong material and the lot on which it is built, situated on Calle Nueva of the suburb of Ermita, Judicial district of Manila and Southern demarcation of the Registry of Property, formerly designated by the No. 53 and at present by the No. 136 of the government police. The lot measures nine meters in front by eighteen meters in depth or a superficial area of 162 square meters, and is bounded on the right of its entrance by the house of the Chinaman Mariano Ocampo and on the left hand at the back by another lot of the Chinaman Joaquin 683 Martinez Sy-Tiongday.

7. Urban property consisting of a house of strong material with the lot on which it is built, situated on Calle Nueva of the suburb and judicial district of Binondo, North demarcation of the Registry of Property of this Capital, formerly designated by the No. 44 of the government police and at present by the No. 154. Said property is bounded on the front, the said Calle Nueva between, by the property divided among three accessories of Da. Gervasia del Rosario, on the right of its entrance by the house property of Doña Clotilde Romree, on the left by the house of Don Isidoro Reyes, and at the back by the house which fronts on Calle San Jacinto of the suburb of Binondo. This whole lot is occupied by the house, and takes the form of an irregular polygon of eight sides whose lineals measurements are in front a line 13 meters and 20 centimeters long, on the right entering another line 9 meters and 74 centimeters; on the left another line 12 meters and 80 centimeters; and at the back a broken line formed of five sections of which the first, counting from right to left is 4 meters 50 centimeters, the second one meter and 53 centimeters, the third 3 meters and 33 centimeters, the fourth 1 meter and 53 centimeters; and the fifth 4 meters and 87 centimeters, the said lot having a superficial area of 149.33 meters?

Manila, April 3, 1908.

(Sgd.)

M. LEGASPI FLORENDO,

*Attorney for G. M. Sy Quia.*

Received copy today April 4, 1908.

C. W. O'BRIEN,

W. H. BISHOP,

Per O'B.

*Testimony.*

## Index

	Direct.	Cross.
Lim Pan Ling .....	1, 62	25
Sy Hien .....	42, 286	70
Sy Qui Quion .....	82, 107	95
Sy Sieng .....	108, 131	123
Sy Yoc Chay .....	133	145
Sy Yoc Leng .....	152, 182, 187, 271, 280. (Cross, 171, 274)	
Li Ung Bing .....	184	
Sy Peng .....	185	
C. W. O'Brien .....	189, 194	191
Wm. H. Bishop .....	194	196
Sy Yu Tehu .....	197, 200	199
Felix Millan .....	204	
Aniceto Singson .....	212	
Norberta Feril .....	217	
Macario Favila .....	221	229
Ramon Rodriguez .....	231	235
Ana Quang Su .....	236	243
Juan Sanchez .....	244, 291	
Manuel de Yriarte .....	246	
Pedro Antonio Sy Quia .....	250	259
Juan Neponuceno Sy Quia .....	261	269
Emilio Medina .....	283	285
Sy Hong Ki .....	87	289
Gregorio Romero Sy Quia .....	301	

685 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance for the City of Manila, Part I.

Before Judge Crossfield.

Civil Case No. 4164.

SY YOC LENG, SY YOC CHAY, SY JUI NIU, and SY CHUA NIU,  
 Plaintiffs,

VS.

PETRONILA ENCARNACIÓN, GREGORIO SY QUIA, PEDRO SY QUIA,  
 JUAN SY QUIA, and GENEROSO MENDOZA Y SY QUIA, Defendants.

*Proceedings.*

JANUARY 7TH, 1907.

Mr. W. H. Bishop and Mr. C. W. O'Brien appeared in behalf of the plaintiffs; Sres. Rosado, Sanz and Opisso on the part of the estate of Petronila Encarnación, Pedro Sy Quia and Juan Sy Quia;

Srs. Ledesma, Sumulong, & Quintos in behalf of Gregorio Sy Quia;  
Sr. Mariano Legaspi on the part of Generoso Mendoza y Sy Quia.

LIM PAN LING, called in behalf of the plaintiffs, being duly sworn testified as follows:

Direct examination by Mr. BISHOP:

Q. State your name?

A. Lim Pan Ling.

686 Sr. OPISSO: Before proceeding any further I ask that this witness be sworn according to the Chinese custom, which is by having the witness cut off the head of a rooster or break a saucer etc., and there are several authorities who may be cited as to the necessity of this rule in relation to the taking of the oath by Chinamen.

Mr. BISHOP: I think this would be most humiliating to this witness to ask him to do this. Our law says that the oath shall be administered and I think any other oath necessarily prohibited by this, and I object to any oath being administered to our witness except the oath provided for by the Civil Code.

The COURT: The only question with me is whether it is directed to make the witness swear to tell the truth, and if a symbol can be used which will impress upon his mind more forcibly the necessity for doing so I will use it, I don't care what it is.

Mr. BISHOP: But this witness is a Christian.

Questions by the COURT:

Q. Do you understand Spanish well?

A. Yes, sir.

Q. The language in Cebu?

A. Yes, sir.

Q. Are you of the Catholic religion?

A. Yes, sir.

The COURT: Proceed with the examination.

Sr. OPISSO: I object because it has not been shown that this oath is binding on this witness.

687 The COURT: The witness has said that he is a Christian and something else must appear before his oath as a Christian can be invalidated.

Sr. OPISSO: Exception.

Direct examination by Mr. BISHOP:

Q. Where do you live?

A. Calle Jaboneros, Manila.

Q. What is your occupation?

A. Employee.

Q. How old are you?

A. Fifty-two years of age, going on fifty-three this year.

Q. What language do you speak?

A. Spanish, Tagalog and Chinese.



Q. Where were you born?

A. In Cebu.

Q. What was the name of your father?

A. Pablo Lim Chinter.

Q. Is your father living or dead?

A. He is dead.

Q. Of what nationality was your father?

A. Chinese.

Q. Where was your father born?

A. In Amoy.

Q. What part of Amoy?

A. Co Xi.

Q. What was the name of your mother?

A. Do you mean in China or Cebu?

Q. Both.

A. Marta.

Q. Of what nationality was your mother in Cebu?

A. A Visayan Filipino.

Q. Were your father and mother married?

A. Yes, sir; they were married.

Q. Where were they married?

A. In China and at Cebu.

Q. How many wives did your father have?

A. He was married in China and also married at Cebu.

Q. To two different women?

A. Yes, sir; different women.

Q. And you are a child of which woman?

A. That of Cebu.

Q. Were you ever in China?

A. Yes, sir.

Q. How many times?

A. I have been in China three times.

Q. How old were you the first time you went to China?

A. I was ten years old.

Q. How long did you stay in China that time?

A. Six years.

Q. Then where did you go to?

A. Home to Manila.

Q. When did you go to China the second time?

A. After I had been six or seven years in China I returned to the Philippine Islands; there I remained in the Philippine Islands five or six years; and then I went back to China the second time.

Q. When did you go back to China the third time?

A. I was two years in the Philippine Islands; and then I went back to China.

Q. And how long did you stay in China that time?

A. A very short time; only about four months.

Q. Where did you stay in China the first time you went there, upon these three different trips?

A. At Co Xi; and I went from time to time to Am Thau.

Q. How often were you in the village of Am Thau?

A. About two or three times, and then my mother used to send me to Am Thau, and sometimes I stayed at Am Thau.

Q. How far is Am Thau from Co Ny?

A. About as far as from here to Malabon.

Q. What mother was it that would send you to Am Thau?

A. My Chinese mother.

Q. What was her name?

A. Sy Chua Niu.

Q. What relation did this woman bear to your father?

A. She was married to my father.

Q. Where was your father married first: in China or in Cebu?

A. He was married first in China.

Q. In any of your trips to Am Thau, how long did you stay there?

A. Three or four months, and then I came back to Co Ny.

Q. Where did you live when you were in Am Thau?

A. In the house of Sy Quia.

Q. Where did you first know Sy Quia.

A. I was a child when I first knew him.

Q. Did you know him first in the Philippine Islands, or in China?

A. In China.

Q. Where did Sy Quia live when you knew him in China?

A. At Am Thau.

690 Q. In what house in Am Thau?

A. The house of Sy Quia.

Q. Did any one else live in that house, and if so, who?

A. The family of Sy Quia, the brothers.

Q. Where is Sy Quia now?

A. He is dead.

Q. When did he die?

A. In 1894.

Q. Where did he die?

A. Here in Manila.

Q. Where is he buried?

A. At the Chinese cemetery, at Pambundoc.

Q. Where is that cemetery?

A. At the back of the Chinese chapel.

Q. What is the name of the Chinese chapel?

A. I don't know the name, it is the house of visita.

Q. Do you know where La Loma cemetery is?

Sr. OFISIO: Objected to as immaterial.

The COURT: Objection overruled.

Sr. OFISIO: Exception.

A. I don't know what you mean by La Loma.

Q. What is Pambundoc: the name of what?

A. All the Chinese are buried in that place.

Q. How do you know that Sy Quia is buried there?

A. Because I went to his funeral the day he was buried.

Q. When did you see his grave last?

A. Last Saturday, when I went with you, Mr. Bishop.

Q. Describe that grave?

691 A. It is surrounded with an iron railing, and it also has a shape of a cross.

Q. Is there any stone monument there?

A. There is a stone image in the shape of a woman, like a saint.

Q. Is there any marking on the grave?

A. Some inscriptions.

Q. What are the inscriptions?

A. On the face of the monument.

Q. Are there any other graves immediately adjacent to that one of Sy Quia?

A. Yes, sir.

Q. Do you know who are buried in any of the graves immediately by the side of that of Sy Quia?

A. Joaquin Sy Ty.

Q. Who was Joaquin Sy Ty?

A. He was a brother of Sy Quia.

Q. How many brothers did Sy Quia have?

Sr. OPISSO: Objected to as incompetent.

Mr. BISHOP: I will withdraw the question.

Q. Do you know whether the Sy Quia who is buried in that grave had any brothers?

A. Yes, sir, he had other brothers.

Q. How many brothers did he have?

Sr. OPISSO: The same objection, as incompetent.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. There were five.

Q. Give their names?

Sr. OPISSO: The same objection.

The COURT: Same ruling.

692 Sr. OPISSO: Exception.

A. First there was Sy Quia, then Sy Ty, then Sy Tiap, then my mother Sy Chua Niu, and then Sy Hien.

Q. Did Sy Quia have any sisters?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir, my mother.

Q. You mean your Filipina, or your Chinese mother?

Sr. OPISSO: Objected to as leading and also as ambiguous.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. I called both of them mother. I was a boy and they treated me as a mother would treat a son, and therefore I called them both mother: both of them were married to my father, and they are both my mother.

Q. By what name did you know this Sy Quia, whom you have spoken about as being buried here, in China?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Sy Tiong Quienh.

Q. By what name was he known in Manila?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. Some called him Sy Tiong Quienh, and some called him Sy Quia, they are both alike.

Q. Do you mean that the names were alike, or that he was the same person?

693 Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. I mean to say that Sy Tiong Quienh and Sy Quia are the same person.

Q. Do you know whether Sy Quia had a Christian name in these Islands?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. What was his Christian name?

A. Vicente Romero Sy Quia.

Q. While you were in China, with whom did you live?

Sr. OPISSO: Objected to as repetition.

The COURT: At what period?

Mr. BISHOP: I withdraw the question for the present.

Q. Where is Sy Quia's brother, Sy Ty?

Sr. OPISSO: Objected to, as already answered by the witness.

The COURT: I have not heard it.

A. He is dead, he died here in Manila.

Q. Where is he buried, in reference to the grave of Sy Quia?

Sr. OPISSO: Objected to.

Mr. BISHOP: I will change the question.

Q. Where is he buried in reference to the grave of Vicente Romero Sy Quia?

A. At Pambundoc, alongside of the grave of Sy Quia.

Q. Where is Sy Quia's brother Sy Tiap?

694 A. I do not know, I was told he died long ago.

Q. And where is that sister Sy Chua Niu, whom you have referred to as your Chinese mother?

A. She is dead, in China.

Q. And where is Sy Quia's brother Sy Hien?

A. Here in Manila.

Q. While you were in China the first time, with whom did you live while in Co Ny?

Sr. OPISSO: Objected to as repetition.

The COURT: The witness has already stated.

Mr. BISHOP: I withdraw the question.

Q. While you were living in the house of Vicente Romero Sy Quia in Am Thau, Amoy, China, what were you doing?

Sr. OPISSO: Objected to, as the witness has stated that Sy Quia was *was* never known in China by that name.

Mr. BISHOP: I withdraw the question.

Q. What identity, if any, is there between the Sy Quia with whom you say you lived in Am Thau, China, and the Vicente Romero Sy Quia whom you say died here in 1894?

Sr. OPISSO: Same objection.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. They are one and the same person.

Q. What did you do while you were living in this house of Sy Quia in Am Thau, China?

A. I was treated as a visitor, and when Sy Quia went away somewhere I went with him.

Q. Why would you go with Sy Quia?

A. When he went anywhere and had anything to do I went  
695 with him, I followed him.

Q. How old were you when you stayed in the house of Sy Quia in Am Thau?

A. Thirteen years of age.

Q. Do you know whether Sy Quia was married or single at the time you were living in the same house with him in China?

Sr. OPISSO: Objected to as not the best evidence.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. He was married.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did Yap Puan Niu live, in what house?

A. In the house of Sy Quia.

Q. In the village of Am Thau?

A. Yes, sir.

Q. Did Sy Quia and his wife, Yap Puan Niu, have any children?

Sr. OPISSO: Objected to as incompetent.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. How many?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. Two.

Q. Boys or girls?

A. Both boys.

Q. What were their names?

696 A. Sy Bi Bo, Sy Bi Git, the family name is Sy.

Q. Which was the older of these two?

A. Sy Bi Bo is the older of the two.

Q. How much older was Sy Bi Bo than Sy Bi Git?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Two or three years older.

Q. Who was the older you or Sy Bi Bo?

A. Sy Bi Bo was older than me.

Q. Where is Sy Bi Bo now?

A. Now he is dead.

Q. When did he die?

A. A long time ago, some thirteen or fourteen years ago.

Q. Where did he die?

A. In China.

Q. Did he die before or after the death of his father?

A. He died before his father.

Q. Who died first, Sy Bi Bo, or Yap Puan Niu, his mother?

A. Sy Bi Bo.

Q. At the time of the death of Sy Bi Bo, was he married or single?

Sr. OPISSO: Objected to as incompetent.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. He was married.

Q. What was the name of his wife?

A. Ho Gim Niu.

Q. Where is the wife of Sy Bi Bo now?

A. She is also dead.

697 Q. Who died first, Sy Bi Bo or Ho Gim Niu?

A. It is such a long time ago, and they lived in China, and I was living here, that it is too hard for me to remember now who died first.

Q. State, if you know, who died first, Yap Puan Niu, or Ho Gim Niu?

Sr. OPISSO: Objected to as calling for hearsay of the witness.

The COURT: The witness may answer.

Sr. OPISSO: Exception.

A. I must think a moment before answering, (witness waits for about a minute before answering), Ho Gim Niu died first.

Q. Did Sy Bi Bo and his wife, P. Gin Nin, have any children?

Sr. CHENG: Objected to as incompetent.

The COURT: Objection overruled.

Sr. CHENG: Exception.

A. Yes, sir.

Q. How many?

A. He had two children, a son and a daughter, and after a time the son died and then he took another son and adopted him.

Q. What is the name of that adopted son?

A. I have not seen him, I do not know his name.

The hearing was then adjourned until eight o'clock the following morning.

696

JANUARY 8TH, 1907.

Pursuant to adjournment the case was called for hearing at 8 a. m. this day, with the same appearances.

LIM PAN LING, still on the stand, testified as follows:

Direct examination resumed by Mr. HAYES:

Q. The last question and answer yesterday were as follows: (Q.) What is the name of that adopted son? (A.) I have not seen him, I do not know his name. Did you understand that question at the time you made that answer?

A. Yes, sir, I do not know his name, and I have not seen him, and he is dead. I knew his native born son, and knew his name before he died.

Q. What was the name of the natural son, who died when a child?

Sr. SIMULON: Objected to on the ground that the witness has stated that he does not know the name of the one who has died.

The COURT: Objection overruled.

Sr. SIMULON: Exception.

A. What I mean to say is that the son of Sy Bi Bo died, and I do not know his name.

Q. Do you know the name of the adopted son?

A. Yes, sir.

Q. What is his name?

A. Sy Yoe Chay.

Q. Where is Sy Yoe Chay now?

A. Here in Manila.

699 Q. Is he in the court room?

A. Yes, sir.

Q. Point him out.

A. There he is. (indicating the plaintiff Sy Yoe Chay).

Q. What is the name of the daughter of Sy Bi Bo?

A. Sy Jui Nin.

Q. Where is she now?

A. She is in China.

Q. Is she living or dead?

A. She is dead.



Q. When did she die?

A. From what I have heard she died six or seven months ago.

Sr. OPISSO: I ask that the answer be stricken out as hearsay.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Q. At the time of her death do you know whether she was married or single?

A. She did not have any children.

Q. At the time of her death was she married or single?

A. She was married.

Q. What was the name of her husband?

A. I do not know his name.

Q. Do you know whether they had any children or not at the time of her death?

Sr. OPISSO: Objected to as already answered.

The COURT: He may answer again, I do not think that what he said was clearly interpreted.

Sr. OPISSO: Exception.

A. It is said she had a small child.

700 Q. About how old is that child now?

A. Just a boy, a few years old, I have not seen, I only know by hearsay.

Q. When did you first see the daughter and adopted son of Sy Bi Bo?

A. He was a small boy when I first saw him in China.

Q. Where did you first see Sy Yoc Chay, in what house?

A. In the house of Sy Quia.

Q. Where did you first see the sister of Sy Yoc Chay, in what house?

A. In the house of Sy Quia.

Q. In what village?

A. Am Thau.

Q. About how old was this sister when you first saw her?

A. She was a small girl.

Q. What other persons lived in the same house at the time you saw Sy Yoc Chay and his sister?

Sr. OPISSO: Objected to as asked already and answered.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. The family of Sy Quia, and Sy Hien.

Q. When did you first see Sy Yoc Chay in Manila.

A. A long time ago, in the time of the Spanish Government.

Q. About how old was Sy Yoc Chay when he first came to Manila?

A. I should say about twenty years, it is a long time ago, and I do not recollect exactly.

Q. How do you know that Sy Bi Bo and Ho Gim Niu were married?

A. I was there living in the house at Am Thau.



Q. How many?

A. A son and a daughter.

Q. What was the name of the son?

A. Sy Yoc Leng.

Q. Where is Sy Yoc Leng now?

A. Here in Manila.

Q. Is he in the court room.

A. Yes, sir.

Q. Point him out.

703 A. There he is (indicating the plaintiff Sy Yoc Leng).

Q. What is the name of the daughter of Sy Bi Git?

A. Sy Chua Niu.

Q. Where is she now?

A. In China.

Q. Is she living or dead?

A. She is living.

Q. Where did you first see Sy Yoc Leng and his sister Sy Chua Niu?

A. In China.

Q. In what house?

A. The house of Sy Quia.

Q. What village?

A. Am 'Thau.

Q. Who else lived in that same house at the same time?

A. The family of Sy Quia.

Q. Where did Sy Bi Bo and his wife live at that time?

A. They also lived there in the house of Sy Quia.

Q. Upon which of your visits to China was it that you saw Sy Yoc Chay, Sy Jui Niu, Sy Yoc Leng and Sy Chua Niu: upon your first, second or third visit?

A. The second time I went to China.

Q. When did you first see Sy Yoc Leng in Manila?

A. I saw him in Manila when he came together with the wife of Sy Quia and my wife.

Q. About how old was Sy Yoc Leng?

A. He was a boy.

Q. About how old?

704 A. A little over ten years of age, may be fourteen or fifteen, it is so many years ago I do not recollect exactly.

Q. What was the name of the wife of Sy Quia, who accompanied Sy Yoc Leng to Manila?

A. Yap Puan Niu.

Q. And what was the name of your wife?

A. Ang Ki Niu is the name of my wife.

Q. What relation was this Yap Puan Niu, who accompanied your wife and Sy Yoc Lieng to Manila, to the Vicente Romero Sy Quia whom you say was buried in the Chinese cemetery here?

A. Husband and wife, Yap Puan Niu was the wife of Sy Quia.

Q. How many times was Yap Puan Niu in Manila?

A. Twice.

Q. How long did she remain each time?

A. Three or four months only.

Q. When did she come to Manila the first and second time?

A. In Spanish times.

Q. Where did she live?

A. In the house of Sy Ty.

Q. What relation was Sy Ty, if any, to Vicente Romero Sy Quia?

A. They were brothers.

Q. How do you know that Yap Puan Niu lived in the house of Sy Ty?

A. Because I was here in Manila and saw it.

Q. Where did you live at that time, in what house?

A. At Baraca, and I was working for Sy Ty as an employee.

Q. In what house did you work for Sy Ty?

A. I was an employee of his.

Q. But in what house did you work?

A. In the house of Sy Ty.

705 Q. Do you mean the house that Sy Ty lived in?

A. Yes, sir.

Q. During the time that Yap Puan Niu was in Manila, did you see Vicente Romero Sy Quia?

A. Yes, sir.

Q. Where?

A. In the house of Sy Ty.

Q. During the time that Yap Puan Niu was in the house of Sy Ty, how often did you see Sy Quia in that house?

A. Every two or four days he came once in the house, I saw him there at least as often as that, but he might have come many times when I did not see him.

Q. State if you know why Sy Quia came to the house while Yap Puan Niu was there?

A. To have a talk.

Q. With whom?

A. With Yap Puan Niu.

Q. Do you know Gregorio Sy Quia?

A. Yes, sir, I know him.

Q. Do you know Pedro Sy Quia?

A. Yes, sir.

Q. Is he in the court room now?

A. Yes, sir.

Q. Kindly point him out.

A. There he is (indicating the defendant Pedro Sy Quia).

Q. Is Gregorio Sy Quia in the court room?

A. Yes, sir.

Q. Kindly point him out.

A. There he is (indicating the defendant Gregorio Sy Quia).

706 Q. Do you know Juan Sy Quia?

A. Yes, sir.

Q. Is he in the court room?

A. Yes, sir.

Q. Kindly point him out.

A. There he is (indicating Juan Sy Quia).

Q. State if you know what relationship exists between Gregorio, Pedro and Juan Sy Quia, and the Vicente Romero Sy Quia you have mentioned in your testimony?

A. They are all sons of Vicente Romero Sy Quia.

Q. Do you know the mother of Gregorio, Pedro and Juan Sy Quia?

A. Yes, sir.

Q. What is her name?

A. Petronila Encarnación.

Q. Where is she now?

A. She is dead.

Q. When did she die?

A. A short time ago, not long ago, I was here in Manila when she died.

Q. Can you write the Chinese characters?

A. Yes, sir.

Q. I will ask you to write in Chinese characters the name of Sy Quia.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 1.

Q. You will now write the name Sy Tiong Sy Quia.

A. Do you mean Sy Tiong Sy Quienh?

Q. Yes, sir.

707 Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 2.

Q. You will now write in Chinese characters the name Yap Puan Niu.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 3.

Q. You will now write in Chinese characters the name Sy Bi Bo.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 4.

Q. You will now write in Chinese characters the name Sy Bi Git.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 5.

Q. You will now write in Chinese characters the name Sy Yoc Chay.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 6.

Q. You will now write in Chinese characters the name Sy Yoc Leng.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 7.

Q. You will now write in Chinese characters the name Sy Hien, I mean the youngest brother of Sy Quia.

Witness writes and attorney for plaintiffs identifies the writing by marking it Name No. 8.

Mr. BISHOP: We now ask that the Chinese characters just written by this witness in court, and marked Names 1 to 8 inclusive, be made a part of the record as a part of the testimony of this witness,  
708 and that the same be marked for identification as Plaintiffs' Exhibit 4.

The Court: There being no objection, it may be admitted.

Q: What identity, if any, is there between the two persons whose names you have written in Chinese characters and which are marked Nos. 1 and 2 on Plaintiff Exhibit 4?

A: The names are alike, the names of which is the name.

Q: Do these two names refer to the same man or to two different men?

A: They are the name of the same person.

Q: What relation, if any, is the name of the person marked No. 1 and the person whose name you have written marked Nos. 1 and 2?

A: No. 1 is identical to the person whose name is marked No. 1 and 2.

Q: What relation, if any, are the two persons whose names you have written marked Nos. 1 and 2 to the persons whose names you have written marked Nos. 1 and 2?

A: Nos. 1 and 2 are the children of the same man.

Q: What relation, if any, is the person whose name you have written marked No. 1 to the person whose name you have written marked No. 1?

A: No. 1 is identical to No. 1 and 2.

Q: What relation, if any, is the person whose name you have written marked No. 2 to the person whose name you have written marked No. 2?

A: No. 2 is identical to No. 2 and 3.

THE COURT: Q: What relation, if any, is the person whose name you have written marked No. 3 to the person whose name you have written marked Nos. 1 and 2?

A: Both are.

MR. HANCOCK: Please may I be permitted to have the witness identify Mr. Han, Han (Ming) with the witnesses.

The Court: All right.

Cross-examination by the defense:

Q: What is your Christian name?

A: Benjamin Liao.

Q: Where were you baptized?

A: In China.

Q: In what church?

A: I was an infant child at the time and I don't know where I was baptized.

Q: Did you not learn afterwards when you were grown up, in what church in China you were baptized?

A: I was in China and I do not remember.

Q: Were you not at any time informed by your father or mother in what church in China you were baptized?

A: I went to China and after a few years in China I learned that my mother was dead, and I had no opportunity to ask her where I was baptized. Still at the present time I have no any relation in China, at Tientsin, and my father had a store in China and

had some business at Tinago, and afterwards came to Manila, and opened a foundry business, the name of my father is Pablo Lim Chiateo.

710 Q Did you live at any time in Cebu when you were over ten years of age?

A I lived in Cebu until I was ten years old, and afterwards came to Manila.

Q Did you not at any time have the necessity to show what we call a certificate of baptism?

A Once when I went to Cebu my relatives told me they were going to get out a certificate of baptism, and I told them there was no necessity for it, that it would be no use to me in any way.

Q Are you married?

A In China.

Q Did you not get married here in Manila?

A No, sir.

Q When your relatives told you they were going to get out your certificate of baptism, did they tell you on which side they were going to take it from?

A They did not tell me.

Q When you became of lawful age did you not cease to be a Catholic?

A I did not go to church any more.

Q You mean to say the religion you now follow is the religion you were taught at the time you were in China: that is what you follow now at the present time?

A The Chinese religion.

Q When did you cease to be a Catholic, and follow the Chinese religion?

A I only follow now the Chinese custom. I got my name in the church, and that is sufficient, and that could be made a matter of inquiry, if so desired, and it could be ascertained from some old people where I was baptized, if you wish to find out.

Q Can you tell us in what God you believe now, at the present time.

A The God here and the Chinese God are the same.

Q I desire to know in which God you believe: the God here, or the God in China?

A Equally.

Q Do you now at the present time exercise or perform any of the ceremonies performed by the Christians, or do you only exercise and perform the ceremonies performed by the Chinese to reverence their God?

A Equally, I only know there is one God.

Q Do you mean to say that at the present time you perform the ceremonies of both religions?

A My custom now is of the Chinese.

Q Do you mean to say you do not exercise or perform any other ceremonies of adoration except what the Chinese follow?

A Yes, sir, the Chinese custom already.

Q You stated a short time ago that you did not go to church



any more: do you mean to say that you do not go any more to the Christian churches?

A. Occasionally I go, but I do not do anything except to go inside.

Q. Do you mean to say that you only go to the funeral of some friends or to the baptism of some relative, and so forth?

712 A. Yes, sir, if I am invited to a funeral I go there.

Q. You do not go to these churches at any time to worship the God worshipped there?

A. No, sir, no more.

Q. This brother of Sy Quia, named Sy Hien, was he also living at Am Thau?

A. Yes, sir.

Q. And the brother of Sy Quia named Sy Ty, did he at any time live also at Am Thau?

A. In Spanish times when I was in China, Sy Ty came to China and I saw him there for two days, and after two days I came to Manila: that is the time when Sy Ty went to China.

Q. Is it not true that these two brothers of Sy Quia, named Sy Ty and Sy Hien, are known in Am Thau as Sy Ty and Sy Hien?

A. Yes, sir.

Q. And is it not true that these same two brothers of Sy Quia were also known here in Manila by the name of Sy Ty and Sy Hien?

A. Yes, sir.

Q. And they also were baptized as Christians, these two, Sy Ty and Sy Hien?

A. Sy Ty was baptized as Joaquin Sy Ty, but Sy Hien was not baptized.

Q. By what name are you known here in Manila?

A. I do not understand.

Q. Is it not true that here in Manila you are known by the name of Lim Pan Ling?

713 A. Pan Ling, because Lim is a surname.

Q. Is it not true you are known in your native land in China by the name of Lim Pan Ling?

A. Yes, sir.

Q. Is it not true that the Chinese here in Manila knew Vicente Romero Sy Quia by the name of Sy Quia only at the time he was alive?

A. No, sir, the people called him by the name of Vicente Sy Quia and others by that of Sy Quia.

Q. Pay attention to the names on Plaintiffs' Exhibit 4, and in regard to Names Nos. 1. and 2 state whether there is any difference between the two last letters of the two names?

A. They are the same, one character.

Q. How do you read the first two letters that appear in the name marked No. 1 on this exhibit?

A. Sy Quia.

Q. Now please read the name marked No. 2 on this exhibit?

A. Sy Tiong Quienh.

Q. How would you write in Chinese the words Sy Quia and Sy Quienh?

A. Sy Quia and Sy Quienh are the same.

Q. Could you write in Chinese characters the name of Sy Quia just the same as how he was called here in Manila?

A. This is it there (indicating name No. 1 on Exhibit 4), I do not know of any other way.

Q. How was he called here and known by the Chinese in Manila: as Sy Quienh or as Sy Quia?

A. Some called him Sy Quienh and some Sy Quia, they are the same.

714 Q. Will you kindly state if the name Sy Quienh as called here in Manila was pronounced in the same way and known in the same way as in Am Thau, China, amongst the Chinese?

A. Just the same, exactly, Sy Quienh.

Q. Can you read Spanish?

A. No, sir.

Q. Where was Sy Ty living the first time Yap Puan Niu came to Manila?

A. At Binondo, at the foot of the bridge.

Q. What street?

A. It is known as San Fernando, it is at the foot of the bridge going from Binondo.

Q. Where was Sy Ty living when Yap Puan Niu came to Manila the second time?

A. In the same house.

Q. Where was Sy Quia living when Yap Puan Niu came to Manila the first time?

A. At Calle Jaboneros.

Q. Where was Sy Quia living the second time when Yap Puan Niu came to Manila?

A. At Calle Jolo.

Sr. ORISIO: I would like to renew the motion made at the beginning at the trial. The testimony of this witness shows that he does not profess now the Christian practice of religion and that his religion is practically the Chinese religion, and therefore the performances of his religion are Chinese, and not Christian, and therefore the way in which the oath should be taken in his case, must be the Chinese form, instead of the Christian.

715 The COURT: The motion to have the witness sworn, in addition to the usual form of oath, by some unknown symbol or ceremony is denied.

Sr. ORISIO: Exception.

Q. Do you know if Sy Bi Bo and Sy By Git came at any time to Manila?

A. Yes, sir, they did.

Q. Who came to Manila first: Sy Bi Bo, Sy Bi Git, or Yap Puan Niu?

A. Sy Bi Bo came first.

Q. And who came next: Sy Bi Git or Yap Puan Niu?

- A. Sy Bi Git came before Yap Puan Niu did.
- Q. When did Sy Bi Git come to Manila?
- A. When I came to Manila, Sy Bi Git was here already.
- Q. How long did Sy Bi Bo remain in Manila?
- A. Only one year, a short time.
- Q. How many times has Sy Bi Bo been in Manila?
- A. Only once.
- Q. How long did Sy Bi Git remain in Manila?
- A. The time when I went to China Sy Bi Git went also to China.
- Q. You mean to say the second time you went to China?
- A. Yes, sir.
- Q. How many times did Sy Bi Git come to Manila?
- A. I only know of ones, I do not know of any other.
- Q. The first time you went to China, to Am Than, can you tell us how long Yap Puan Niu had been married to Sy Quia at that time?
- A. I was a small boy, I do not know anything about it.
- Q. How old were you the first time you went to China?
- A. Very nearly ten years old.
- 716 Q. How long did you remain in China the first time you went there?
- A. A little over six years.
- Q. And during all that time was Sy Quia also in China, in Am Than?
- A. Yes, sir.
- Q. Who returned first to Manila, you or Sy Quia?
- A. Sy Quia came first to Manila.
- Q. Do you recollect how many years from the present time it was the first time you went to China?
- A. Over forty years ago: now I am fifty-two years of age and it is over forty years ago.
- Q. What were the ages of Sy Bi Bo and Sy Bi Git the first time you went to China?
- A. They were about sixteen or seventeen years of age.
- Q. Do you know whether or not, after that time you saw Sy Quia in China and he returned to Manila, he went back to China, and if so how long he remained there?
- A. Over one year.
- Q. Besides that time when you saw Sy Quia in China, how many times more did he go back to China.
- A. I saw him only that time in China, and then afterwards I saw him here in Manila.
- Q. Were Sy Bi Bo and Sy Bi Git already married the first time you went to China?
- A. They were not married yet.
- Q. Did not Sy Bi Bo and Sy Bi Git get married during those six years you were in China?
- A. The time when Sy Quia was in China they were not married, but afterwards they got married.
- 717 Q. Did they get married after these six years you have referred to?

A. I mean to say that at the time when Sy Quia returned here to Manila, Sy Bi Bo and Sy Bi Git were not yet married.

Q. But the question is whether or not during these years you refer to, when you went to China and lived there these six years, Sy Bi Bo and Sy Bi Git got married during that time?

A. Afterwards they got married when I was very near about to return to Manila.

Q. Did Sy Bi Bo and Sy Bi Git get married in the same year?

A. No, sir, four or five years after.

Q. Who got married first?

A. Sy Bi Bo.

Q. How many years a-ter Sy Bi Bo got married, did Sy Bi Git get married?

A. A little over one year afterwards.

Q. In what house in Manila did Sy Bi Bo and Sy Bi Git live when they came to Manila?

A. In the house of Sy Ty.

Q. During all the time that Sy Bi Git remained in Manila, did he constantly live in that house?

A. Yes, sir, in the house of Sy Ty.

Q. When did you know for the first time Gregorio, Pedro and Juan Sy Quia?

A. They were living at Calle Jaboneros when I knew them.

Q. How many years ago?

A. From fifty-two deduct seventeen, and how much remains: it is over thirty years ago, anyhow.

Q. You have stated that Gregorio, Pedro and Juan are the children of Sy Quia and Petronila Encarnación?

A. Yes, sir.

Q. Did you know this the first time you saw Sy Quia in China?

A. Yes, sir.

Q. With whom were Gregorio, Pedro and Juan Sy Quia living the first time when Yap Puan Niu came to Manila?

A. At Calle Jaboneros.

Q. To whom did that house belong where they were living?

A. That was the house of Sy Quia.

Q. Did Sy Quia also live in that house at that time?

A. Yes, sir.

Q. And was Petronila Encarnación also living in that house at that time?

A. Yes, sir.

Q. Did Sy Bi Bo and Sy Bi Git live at any time at that house at Calle Jaboneros where Sy Quia and Petonila Encarnación lived, when they came to Manila?

A. Yes, sir.

Q. You have seen Sy Bi Bo and Sy Bi Git living at the same time in the same house with Petronila Encarnación and Sy Quia?

A. When I took Sy Bi Bo here with me from China I took him to the house of Petronila Encarnación for a walk, and she asked me who he was, and I replied that he was a son of Sy Quia. Then she

asked me why he had come here, and I replied that he had come here to visit and to transact some business.

Q. When you took Sy Bi Bo there to that house on Calle Jaboneros did you not introduce him to any other person besides  
719 Petronila Encarnación?

A. No, sir, he was only introduced to Petronila Encarnación.

Q. Was he not introduced to Vicente Romero Sy Quia?

A. No, sir, he was not in the house.

Q. Where was Vicente Romero Sy Quia at that time?

A. I do not know, I did not see him in the house.

Q. Was he in China at that time?

A. No, sir, he was not in China, he was here in Manila.

Q. Is it not a fact that the only time that Sy Bi Bo was in that house at Calle Jaboneros, was that time when you took him there for a walk?

A. Only that time when I took him there.

Q. The first time that Sy Yoc Chay and Sy Yoc Leng came to Manila, in what house did they live?

A. In the house of Sy Ty.

Q. Before you went to China the first time, when you were about ten years of age did you know Sy Quia here in Manila at that time?

A. No, sir, I did not know Sy Quia then.

Q. When did you know his brother Sy Ty for the first time?

A. When I came back from China to Manila then I knew Sy Ty here.

Q. Were you in China when Sy Bi Bo died?

A. I was not in China at that time.

Q. When Sy Bi Git died, were you in China?

A. No, sir, I was not.

Q. Were you in China when Sy Bi Bo was born?

A. No, sir, I was not.

Q. And when Sy Bi Git was born, were you in China.

A. No, sir, I was not.

720 Q. How old was Sy Bi Bo when he got married?

A. Over twenty years of age.

Q. How old was Sy Bi Git when he got married?

A. Over twenty years of age, one or two years difference.

Q. Were you in China when Sy Yoc Chay was born?

A. No, sir, I was not.

Q. Were you in China when Sy Yoc Leng was born?

A. No, sir, I was here in Manila.

Q. Were you in China when Sy Chua Niu was born?

A. No, sir.

Q. Were you in China when Sy Jui Niu was born?

A. No, sir.

Q. You have stated that your Christian name is Epifanio, what is your surname which you got from your mother?

A. I did not follow that, I only took the name of my father.

Q. How long did you remain in China the second time you went there?

A. I stayed there nearly two years.

Q. How many years were there from the first time you went to China up to the second time you went there?

A. Stayed here about six or seven years and then I went back to China.

Q. And upon returning from China the second time to Manila how long did you remain here before going again to China for the third time?

A. I only remained here one or two years, and then I went to China to take the wife of Sy Ty: that is the third time.

Q. How many years did you stay in China that third time?

A. I stayed there about one or two months only, and then I came back to Manila.

721 Q. Where is the wife of Sy Ty to whom you have referred in your statement?

A. She is dead.

Q. Where did she die?

A. Here in Manila.

Q. Did not Sy Ty get married again after the death of that wife of his?

A. Yes, sir, he got married to a girl.

Q. Where did he get married: here or in China?

A. Here, and that woman also came from China.

Q. Where is that woman now?

A. Here in Manila.

Q. The first time that Yap Puan Niu came to Manila with whom was Sy Ty married: the first or the second wife?

A. With the first wife.

Q. And the second time that Yap Puan Niu came to Manila with whom was Sy Ty married; the first or the second wife?

A. With the first wife.

Q. What is the name of the first wife of Sy Ty?

A. Tan Siu Niu.

Q. What is the name of the second wife?

A. The second wife was called by the Chinese Ka Ga.

Q. Who died first Sy Quia or Yap Puan Niu?

A. Yap Puan Niu died first.

Q. Where did Yap Puan Niu die?

A. I was informed that Yap Puan Niu died in China.

Q. Were you in China when Sy Bi Bo died?

A. No, sir, I was not.

Q. Were you in China when Sy Bi Git died?

A. No, sir, I was here.

722 Q. Then how is it that you testify as to their death when you do not know of your own personal knowledge?

A. I know it from information that I received.

Q. Were you here in Manila when Sy Quia died?

A. Yes, sir.

Q. Was Sy Yoc Chay in Manila when Sy Quia died?

A. Yes, sir.

Q. Was Sy Yoc Leng in Manila when Sy Quia died?

A. Yes, sir.

Q. Was Sy Jui Niu here in Manila when Sy Quia died?

A. No, sir, she was not here in Manila.

Q. Was Sy Chua Niu in Manila when Sy Quia died?

A. No, sir, she was in China.

Q. Did not Sy Jui Niu and Sy Chua Niu come at any time to Manila?

A. No, sir, they never came to Manila.

Q. You have stated that you went to see the tomb of Sy Quia: can you tell us for what purpose you went there?

A. I went there with Mr. Bishop, at his request.

Q. What did you do there?

A. We went to see the inscription.

Q. And that was the first time you saw that tomb?

A. No, sir, I went there at the time of the funeral.

Q. Did Sy Yoc Chay and Sy Yoc Leng know that Sy Quia was dead, when he died here in Manila?

A. Yes, sir.

Q. When you went to the funeral of Sy Quia did you see the monument which you saw this time?

A. No, sir, it was not there at that time, it was not made at that time.

723 Cross-examination by Sr. LEGASPI:

Q. In what part of Cebu were you born?

A. At Tinago, that is a pueblo.

Q. How many years did you live there?

A. When I was ten years of age then I came to Manila.

Q. From the time you came to reside in Manila, how many years did you stay here in Manila?

A. The same year I went to China.

Q. Do you mean to say by that that from eleven years of age you remained in Manila up to the present time?

A. No, sir, I remained here about eight or nine months and then I went to China.

Q. When you were fifteen years of age where were you?

A. In China.

Q. And after you were fifteen years of age, how many years did you stay in China?

A. That is a matter of computation.

Sr. SUMULONG: I withdraw the question.

Q. When you went the first time to China who took you there?

A. My father requested one of his friends by the name of Ung Ho Co to take me over to China.

Q. Where did you stay in China the first time you went there?

A. At Co Ny.

Q. How long did you stay at Co Ny?

A. Six or seven years.

Q. What distance is it from the pueblo of Co Ny to Am Thau?

A. About as far as from here to Malabon.



Q. The first time when you visited Sy Quia in China, what family did he have there then?

724 A. His wife Yap Puan Niu.

Q. And during this six or seven years when you were there in China for the first time, you have seen Sy Quia there all that time?

A. No, sir, Sy Quia remained there only one year, and then returned here to Manila.

Q. And the second time you went to China did you also find Sy Quia there?

A. No, sir.

Q. And the first time you went to China and saw Sy Quia there, did you know whether or not he was married to Petronila Encarnación?

A. No, sir, I did not know that.

Q. When did you first learn that Sy Quia was married to Petronila Encarnación?

A. I did not know it at that time, but when I came back to Manila, he already had a child.

Q. How many children did Sy Quia have with Petronila Encarnación when you knew him the first time?

A. Do you mean here or in China?

Q. Here.

A. Three boys and two girls.

Q. Did you know personally these two girls you mention now?

A. Yes, sir, I knew them.

Q. At the time when you knew these two girls, the daughters of Petronila Encarnación and Sy Quia, were they older than you, or were you older than they were?

A. It seems to me that I was the oldest.

725 Q. Will you kindly state to us at the time when you knew these girls for the first time, what were their heights?

A. They were already grown up, they were over twenty years of age when I knew them.

Q. Both of them or only one of them was over twenty years of age?

A. When I knew them they were grown up.

Q. Where were they living when you knew them, when they were over twenty years of age?

A. At Calle Jaboneros.

Q. Do you remember the last time you saw these two girls?

A. It was when we were living at Calle Jolo when I saw them the last time.

Q. Who did you know first: these two daughters of Petronila Encarnación and Sy Quia, or Sy Bi Bo and Sy Bi Git?

A. I knew first Sy Bi Bo and Sy Bi Git in China.

Q. Do you know where are those two girls who you say are the daughters of Sy Quia and Petronila Encarnación?

A. They are both dead.

Q. Did you go to the funeral of these two women?

A. I did not.

Q. Do you know where these two women died?

A. I do not know in what houses they died, I only heard that they had died.

Sr. LEGASPI: That is all.

Cross-examination.

By Sr. ROSADO:

Q. Do you know what was the religion of Yap Puan Niu: Christian, Chinese or what?

A. The Chinese must follow the Chinese rule.

726 Q. When Yap Puan Niu came to Manila, did she know that Sy Quia was married to Petrolina Encarnación?

A. Yes, sir, she knew that.

Q. Did she know it in China, prior to her coming to Manila?

A. I do not know whether she knew it there or not, but she knew it when she came here.

Sr. ROSADO: That is all.

Mr. BISHOP: I will ask leave to recall this witness for the purpose of identifying Sy Hien.

The COURT: You can recall him whenever you can get them both together for the purpose of identification.

The hearing was then adjourned until 8 o'clock, on the following day.

JANUARY 9TH, 1907.

Pursuant to adjournment the case was called for hearing at 8 a. m., with the same appearances.

Sy HIEN, called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. State your name?

A. Sy Hien.

Q. Where do you live?

A. At Calle Santo Cristo.

Q. What is your business?

A. I have no business now.

Q. What is your age?

727 A. I am fifty-nine years of age.

Q. What dialect in Chinese do you talk?

A. The dialect of Amoy?

Q. Can you write Chinese characters?

A. Yer, sir.

Q. Where were you born?

A. At Am Thau, Amoy, China.

Q. What is the name of your father?

A. Sy Tiong Quian.

Q. What is the name of your mother?

A. Sy Muy Niu.

Q. Are your parents alive, your father and mother?

A. No, sir, they are dead.

Q. About how long ago did they die, more or less?

A. Over twenty years ago, I do not remember exactly how long ago.

Q. After your father and mother married, where did they live?

A. At Am Thau.

Q. Did you have any brothers?

A. Yes, sir.

Q. How many?

A. There were four, including myself?

Q. What are their names?

A. The oldest was Sy Quia, who was also named Vicente Romero Sy Quia; then came Sy Ty, and afterward came Sy Tiap, and then myself.

Q. Who was the youngest among these brothers?

A. I am the youngest of all.

728 Q. Did you have a sister?

A. Yes, sir.

Q. What is her name?

A. Sy Chua Niu.

Q. Where is Sy Chau Niu now?

A. She is dead.

Q. Was she married or single?

A. Married.

Q. To whom was she married?

A. With Pablo Lim Chiateco.

Q. Do you know Lim Pan Ling?

A. Yes, sir.

Q. What relation is there between him and your sister?

A. He is just like a son of Lim Chiateco.

Q. Do you mean to say that he was a son of Lim Chiateco with your sister?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. Where are your brothers now?

A. They are all dead.

Q. If Sy Quia were living now about how old would he be?

A. Approximately eighty years of age.

Q. What is the difference of age between you and your brother Sy Quia?

A. About twenty-five years' difference.

Q. Do you know whether or not Sy Quia was married during his lifetime?

729 A. Yes, sir, he was married in China.

Q. Where did he get married in China?

A. In my pueblo at Am Thau.

Q. With whom did he get married.

A. With Yap Puan Niu.

- Q. Where is his wife now?  
 A. She is dead.  
 Q. When did the wife of Sy Quia die?  
 A. Before Sy Quia I believe, about two years before.  
 Q. Where did the wife of Sy Quia die?  
 A. At Am Thau.  
 Q. During the lifetime of Sy Quia's wife, where did she live?  
 A. In the house of Sy Quia.  
 Q. Where?  
 A. At Am Thau.  
 Q. Who else lived in the same house?  
 A. All our brothers and all the family.  
 Q. You have stated that Sy Quia is dead now: when did he die?  
 A. I believe in 1894.  
 Q. Where is he buried?  
 A. In the Chinese cemetery.  
 Q. In Manila.  
 A. Yes, sir.  
 Q. Where were all your brothers born?  
 A. In my pueblo.  
 Q. At Am Thau?  
 A. Yes, sir.  
 Q. During the marriage contract of your brother Sy Quia, did he have any children?  
 730 A. Yes, sir, two sons.  
 Q. What are their names?  
 A. The oldest was Sy Bi Bo, the second Sy Bi Git.  
 Q. What are the ages of the children of your brother Sy Quia living now?  
 A. The same age as myself, the youngest is one year younger than I am.  
 Q. Where are they now, Sy Bi Bo and Sy Bi Git?  
 A. They are dead.  
 Q. When did Sy Bi Bo die?  
 A. He died before his father did.  
 Q. When did Sy Bi Git die?  
 A. The following year I believe.  
 Q. Should Sy Bi Bo be living now, how old would he be?  
 A. Approximately my age, because I am fifty-nine years old.  
 Q. Where were Sy Bi Bo and Sy Bi Git born?  
 A. At Am Thau.  
 Q. During their lifetime where did they live?  
 A. In Am Thau, China.  
 Q. In whose house?  
 A. In the house of the family, Sy Quia's house.  
 Q. How long did Sy Quia live in that house after he got married?  
 A. Sometimes he lived in China, and sometimes he lived here in Manila.  
 Q. Do you know whether or not after his marriage in China he came to the Philippine Islands, to Manila?  
 A. Yes, sir, he did.

Q. How long after the marriage of Sy Quia in China did he come to the Philippine Islands?

731 A. I do not know how long after it was, I do not even know what year he came to Manila.

Q. How old was Sy Quia when he came to the Philippine Islands the first time, if you know?

A. As I was informed by our parents, the first time when Sy Quia came to the Philippine Islands he was twelve years of age.

Q. When was the first time you saw your brother Sy Quia?

A. In Manila.

Q. Did Sy Quia go back to China after you had come to the Philippine Islands?

A. Yes, sir, he did.

Q. Why did he go back to China?

A. Once he went back to China to bury our father and mother.

Q. How long did he stay in China on that occasion?

A. I do not remember now how long he stayed in China that time.

Q. Could you not tell us approximately how long he remained in China on that occasion?

A. About two years, something like that.

Q. When Sy Quia was in China, where did he live?

A. At Am Thau, in our house.

Q. Who else lived with him in that house of yours at Am Thau?

A. All our family, the brothers, nephews etc.

Q. How old were you when you came to the Philippine Islands the first time?

A. Twelve years of age.

Q. With whom did you live in Manila?

A. In the same house with Sy Quia.

732 Q. Who else were living in the house of Sy Quia besides you?

A. Sy Quia and Sy Ty, and all our relatives.

Q. Where was the house of Sy Quia situated at that time?

A. At the foot of the bridge of Binondo.

Q. What street?

A. Santo Cristo.

Q. On what street was the entrance to that house?

A. On Calle San Fernando.

Q. How long did you live there in that house of your brother Sy Quia, more or less?

A. The first time over twelve years.

Q. And where did you go after said twelve years?

A. I went to China.

Q. How long did you remain in China?

A. The first time four years.

Q. Where did you go after these four years you stayed in China?

A. I came back to Manila, and after one year I went back to China again.

Q. What kind of business was Sy Quia engaged in at that time?

A. He had a dry-goods store at Santo Cristo, and sometimes he went to Ilocos to purchase some tobacco leaf.

Q. Did Sy Quia have any business in the provinces?

A. He had business at Cagayan, he went there to buy tobacco and native produce.

Q. After the first time you came to the Philippine Islands, how many times did you go back to China?

A. The first time I went to China I stayed there four years, and the second time I stayed there nine years.

Q. When you went to China, where did you live?

A. At Am Thau.

733 Sr. OPISSO: Exception.

A. First there was Sy Quia, then Sy Ty, then Sy Tiap then my mother Sy Chua Niu, and then Sy Hien.

Q. Did Sy Quia have any sisters?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir, my mother.

Q. You mean your Filipina, or your Chinese mother?

Sr. OPISSO: Objected to as leading and also as ambiguous.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. I called both of them mother, I was a boy and they treated me as a mother would treat a son, and therefore I called them both mother: both of them were married to my father, and they are both my mother.

Q. By what name did you know this Sy Quia, whom you have spoken about as being buried here, in China?

Sr. OPISSO: Objected to as leading.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Sy Tiong Quienh.

Q. By what name was he known in Manila?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. Some called him Sy Tiong Quienh and some called him Sy Quia, they are both alike.

Q. Do you mean that the names were alike, or that he was the same person?

734 Q. Who else lived in the same house with you?

A. All the family, my brothers.

Q. Was Sy Bi Bo living in that house at that time?

A. Yes, sir.

Q. Was he married or single at that time?

A. When I went to China he was married already.

Q. How do you know that he was married?

A. Because when I was in China I saw all his family.

Q. With whom did Sy Bi Bo get married?

A. With Ho Gim Niu.

Q. How old was Sy Bi Bo when he got married, more or less?

A. He must have been about twenty years old more or less, because when I went back to China I saw him already with a wife.

Q. How old was his wife at the time of his marriage, or at the time when you went to China.

Sr. OPISSE: Objected to as incompetent and immaterial.

The COURT: You can put the question, but I do not think it is material.

Mr. BISHOP: I withdraw the question.

Q. Where is Ho Gim Niu now?

A. She is dead.

Q. Where did Ho Gim Niu die?

A. In the same pueblo of Am Thau.

Q. Is Sy Bi Bo living or dead?

A. He is dead.

Q. Where did Sy Bi Bo die?

A. Also in Am Thau.

Q. How old was Ho Gim Niu when she died?

735 A. I do not know how old she was when she died.

Q. Did Sy Bi Bo and Ho Gim Niu have any children?

A. They had an adopted son.

The COURT: But did they have any children of their own?

A. Yes, sir.

Q. How many?

A. They had two children, a son and a daughter, and the son died.

Q. And the daughter, is she living or dead?

A. She is living yet.

Q. What is the name of the son?

A. Sy Yoc Chay.

Q. What is the name of the daughter?

A. Sy Jui Niu.

Q. Where is Sy Yoc Chay now?

A. In Manila.

Q. Is he in the court-room?

A. Yes, sir.

Q. Kindly point him out?

A. There he is, (indicating the plaintiff Sy Yoc Chay).

Q. Is Sy Yoc Chay the son of Sy Bi Bo which you stated died?

A. Sy Yoc Chay is the adopted son of Sy Bi Bo.

Q. When was he adopted?

A. He was still at the breast when he was adopted.

Q. When, with reference to the time of the death of the son of Sy Bi Bo, was Sy Yoc Chay adopted?



A. At the same time, a few days later.

Q. Do you know how many years Sy Yoc Chay has been in Manila?

A. I cannot tell you how many years.

736 Q. How old was Sy Yoc Chay when he came to Manila?

A. I am unable to state how old he was when he came.

Q. How old is Sy Yoc Chay now?

A. I do not know that either.

Q. More or less?

A. I do not remember, I cannot tell.

Q. Do you remember in what house Sy Yoc Chay was staying when he came the first time?

A. In the house of Sy Quia with all the rest.

Q. Who were the rest who lived in this house, when Sy Yoc Chay came to Manila?

A. All our relatives, ourselves.

Q. What are the names of these relatives?

A. That is hard to remember, some were from the provinces, and some from Manila, coming in and going out from the house.

Q. Did he live in the same house with you?

A. Yes, sir.

Q. Where were your brothers living?

A. In the same house with us.

Q. What house?

A. In the house where Sy Quia lived.

Q. On what street?

A. Calle Santo Cristo.

Q. Was Sy Ty living in that house at that time?

A. Yes, sir.

Q. What did Sy Yoc Chay do when he became of lawful age?

A. Sometime he went to the provinces, and sometimes to China.

737 Q. Do you know who was supporting Sy Yoc Chay?

A. When he came to Manila the first time he was put to school at the expense of Sy Quia.

Q. How do you know that Sy Quia furnished the expenses of schooling?

A. Why not, we were living in the same house, and sometimes the money went through my hands.

Q. Did you have any conversation with Sy Quia in regard to Sy Yoc Chay?

Sr. Orisso: Objected to as calling for hearsay testimony.

The Court: The question may be answered.

Sr. Orisso: Exception.

A. I do not remember.

Q. Have you ever heard Sy Quia make any statement in reference to Sy Yoc Chay if so state what they were, and when?

Sr. Orisso: Objected to, as the witness has already answered to the same question in principle.

The Court: He may answer.

Sr. OPISSO: Exception.

A. He has already treated him as his grandson.

Sr. OPISSO: I move that this answer be stricken out as not responsive to the question.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Q. How did Sy Quia treat you?

A. As a brother.

Q. Have you got at the present time any letter of Sy Quia in your possession?

738 A. I have none here, but I have plenty in China.

Q. Do you possess at the present time any commercial documents or family documents of Sy Quia?

A. I am unable to state whether I have or not. I have three or four boxes full of papers, and I am unable to state.

Q. Are you married?

A. Yes, sir.

Q. Where did you get married?

A. In China.

Q. Where are your marriage certificates?

A. They were always left in my pueblo.

Q. Did Sy Quia speak to you in regard to his own wife, Yap Puan Niu?

Sr. OPISSO: Objected to as leading and presumptive.

The COURT: Objection sustained.

Q. Did you have any conversation with Sy Quia in regard to his wife Yap Puan Nui: if so, state when?

Sr. OPISSO: Same objection.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. I always had conversations with him, but I do not remember what.

Q. Who supported your family at Am Thau, and by that I mean the entire family: who lived in that house at Am Thau?

Sr. OPISSO: Objected to as wholly immaterial.

Q. Who supported the family of Sy Quia at Am Thau?

A. Sy Quia himself, he sent money to his family every year.

Q. How do you know that Sy Quia sent money to his family at Am Thau?

739 A. Because sometimes it went through my hands.

Q. What amount of money did Sy Quia send to his family each year at Am Thau, China?

A. Every year he sent one thousand pesos.

Q. State, if you know, who constructed and supported that house you refer to at Am Thau, China?

A. Each one supported his own family, like myself, I support my own family, and the family of Sy Quia he has to support.

Q. Have you been in China with Sy Quia, after he got married to Yap Puan Niu, at any time?

A. I never met him in China.

Q. Was Yap Puan Niu known by any other name in China?

A. It is a Chinese custom that after the death of a person another name is placed on the tombstone.

Q. Was this done in the case of Yap Puan Niu?

A. I only heard.

Q. Do you remember this other name of Yap Puan Niu, which was put on the tombstone after her death?

A. When she died and a tombstone was placed, I was not in China.

Q. Do you know by what name she was called after her death?

Sr. SUMULONG: Objected to as calling for a statement from the witness which can only be hearsay.

The COURT: Objection overruled.

Sr. SUMULONG: Exception.

A. I do not know.

Q. Was Sy Bi Git single or married when he died?

740 A. He was married.

Q. What was the name of the wife of Sy Bi Git?

A. Yap Su Niu.

Q. Where is Yap Su Niu now?

A. She is dead.

Q. At the time of the death of Sy Bi Git and his wife Yap Su Niu, did they have any children?

A. They had a son and daughter.

Q. What are their names?

A. Sy Yoc Leng.

Q. Do you remember the name of the daughter?

A. Sy Chua Niu.

Q. Where is Sy Yoc Leng now?

A. Here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Kindly point him out.

A. There he is (indicating the plaintiff Sy Yoc Leng).

Q. Where is Sy Chua Niu?

A. In China.

Q. How do you know that Sy Yoc Leng and Sy Chua Niu are the children of Sy Bi Git?

A. Why not, the whole family lived in the same house together, and for that reason I know it.

Q. Were you in China when Sy Yoc Leng was born?

A. I was not.

Q. How long a time has Sy Yoc Leng been in Manila?

A. He was a small boy when he came to Manila.

Q. What was he doing in Manila?

741 A. His grandfather sent him to school.

Q. Where did Sy Yoc Leng live when he came to Manila?

A. Also in that house at Santo Cristo.

Q. Whose house?

A. The house of Sy Quia.

Q. Who else lived in that house?

A. We brothers and our relatives.

Q. What are the names of the brothers who lived in that house?

A. Sy Ti and Sy Tiap. I cannot remember the names of the relatives, as they came and went.

Q. Who supported Sy Yoe Leng?

A. His grandfather also.

Q. What was the name of his grandfather?

Q. Vicente Sy Yuia.

Q. Who was paying for his education?

A. Always the grandfather.

Q. How do you know that fact?

A. Because sometimes the money went through my sister in law's hands, and she gave it to me.

Q. How was Sy Yoe Leng treated by Sy Quia?

A. As his grandson.

Q. Did you at any time talk to Sy Quia in regard to Sy Yoe Leng?

A. We frequently talked about him, but I do not remember now what it was.

Q. How did Sy Quia refer to Sy Yoe Chay and Sy Yoe Leng?

A. As his grandchildren.

Q. By what name was Sy Quia known in Manila?

A. He was known in Manila by the name of Vicente Romero Sy Quia.

742 Q. By what name was he known in China?

A. In China always Sy Tiong Quii.

Q. Was Vicente Romero Sy Quia the same person as Sy Tiong Quii?

— Yes, sir, that is also his name, Sy Tiong Quii.

Q. Then Vicente Romero Sy Quia and Sy Tiong Quii was one and the same person, was he?

A. Yes, sir.

Q. And the grandfather of Sy Yoe Chay and Sy Yoe Leng?

A. Yes, sir.

Sr. OPISSO: Objected to as leading?

The COURT: It has been already answered, but question should not be made leading.

Q. What is the signification of the name Tiong?

A. All we brothers use the word Tiong: Sy Tiong Quia, Sy Tiong Tiap, Sy Tiong Ty.

Q. And your name also?

A. Sy Tiong Hien.

Q. What relationship existed between Vicente Romero Sy Quia and Sy Jui Niu?

A. Sy Jui Niu is the granddaughter of Sy Quia.

Q. What relationship exists between Sy Chua Niu and Vicente Romero Sy Quia?

A. Also his grand daughter, the daughter of Sy Bi Git.

Q. Please describe the house of your family at Am Thau?

Sr. OPISSO: Objected to as wholly immaterial.

The COURT: Objection sustained, I do not see how it is material.

Q. Were you in Manila at the time of the death of Vicente Romero Sy Quia?

A. Yes, sir, I was.

743 Q. Did you assist in the funeral ceremonies?

A. I do not remember.

Q. Were you present when he was buried?

Sr. OPISSO: Objected to as the same question.

The COURT: It may be answered, it is not quite the same question.

A. I was present when he was put in the ground.

Q. Where was he buried?

A. In the Chinese cemetery.

Q. Do you know Petronila Encarnación?

A. Yes, sir, of course.

Q. Where is she now?

A. She is dead.

Q. When did she die?

A. I do not remember exactly whether this year or last.

Q. Do you mean this Chinese year, or this year.

A. I do not understand.

Q. How many months ago, about?

A. I cannot calculate.

Q. More or less?

A. I believe this year.

Q. Where is Petronila Encarnación buried?

A. I believe at Paco.

Q. What relationship existed between Sy Quia and the said Petronila Encarnación?

A. She was his legitimate wife, married to him, and he had many children with her.

Q. In China, or in the Philippine Islands?

A. In the Philippine Islands.

744 Q. Do you know the names of the children of Sy Quia by Petronila Encarnación?

A. Yes, sir.

Q. What are their names?

A. Gregorio, Pedro, Juan and the two women are Maria and Apolinaria.

Q. Did you at any time talk with Petronila Encarnación in regard to Sy Yoc Chay and Sy Yoc Leng?

A. Frequently talked about them, but I don't remember what was said.

Q. Was the Vicente Romero Sy Quia, who was married here in the Philippine Islands to Petronila Encarnación, the same Sy Quia or Sy Tiong Qui who married Yap Puan Niu in China?

A. Yes, sir, one and the same person.

Q. Do you know if Yap Puan Niu came to Manila at any time, or not?

A. I do not remember.

Q. Do you remember whether she was ever here or not?

Sr. OPISSO: Objected to, as the witness has already answered that he did not remember.

Mr. BISHOP: We think that he means that he did not remember the date.

The COURT: It may be answered, no one will be hurt by it.

Sr. OPISSO: Exception.

A. I do not remember.

Q. Did you ever see Yap Puan Niu in Manila?

Sr. OPISSO: Same objection.

Mr. BISHOP: We still think that he does not understand the question.

745 The COURT: It may be answered.

Sr. OPISSO: Exception.

A. I do not remember.

Q. When Sy Ty died, did he leave a will?

Sr. OPISSO: Objected to as immaterial.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. Who was the executor of his will?

A. I and Pedro Sy Quia.

Q. Did he leave any children?

A. Yes, sir.

Q. Do you know Baldomero Sy Ty?

Sr. OPISSO: Objected to as immaterial, I do not see any connection.

The COURT: I do not care whether there is any connection, if it explains matters which are connected with the case.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. Who was the guardian or tutor of Baldomero Sy Ty?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. I believe Pedro Sy Quia, I do not remember well.

Sr. SUMULONG: We move that the last answer of the witness be stricken from the record, because it is merely a belief of the witness.

Mr. BISHOP: That will be satisfactory to us.

746 The COURT: The motion is not well made, there is no ground for it, but if counsel has no objection it may be stricken out.

Q. Can you write Chinese characters?

A. Yes, sir.

Q. Can you write in Chinese characters the names of the different persons that you have mentioned in your testimony?

A. That is very hard, but I will try to do so.

Q. Will you write in Chinese characters the name of Sy Quia?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 1.

Q. Will you now please write the name of Sy Tiong Quii?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 2.

Q. Will you now write in Chinese characters the name Yap Puan Niu.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 3.

Mr. BISHOP: We ask to have the case suspended for a short while to enable us to get a Chinese pen, and have these characters written in a more permanent way in ink.

Sr. OPISSO: Whereas the witness has already written in pencil, we object to having it changed now from pencil to a pen.

The COURT: Objection overruled, this is purely technical and seems to be in such bad faith, not desiring to have a record made permanent, that such an objection should never have been made by counsel.

Sr. OPISSO: Exception.

Mr. BISHOP: While we are waiting, I will ask to recall the  
747 previous witness Lim Pan Ling for a moment.

The COURT: You may do so.

LIM PAN LING, being recalled, testified as follows:

Direct examination by Mr. BISHOP:

Q. Where is the Sy Hien that you referred to yesterday as the youngest brother of Sy Quia?

A. He is here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the witness who had just left the stand).

Mr. BISHOP: That is all.

The COURT: Do you wish to cross-examine this witness, Sr. OPISSO, as to identification?

Sr. OPISSO: No, sir.

The COURT: Sr. ROSADO, do you wish to cross-examine this witness on this point?

Sr. ROSADO: No, sir.

The COURT: And you, Sr. Sumulong?

Sr. SUMULONG: No, sir.



The Court: Do you wish to cross-examine this witness, Sr. Legaspi, as to identification?

A. No, sir.

A recess was then taken for twenty minutes.

748 Sy Hien, being recalled, testified as follows:

Direct examination by Mr. Bishop:

Mr. Bishop: If the Court please, counsel for the plaintiffs asks leave to repeat the last three questions, as the witness has now a regular Chinese pen in place of the soft lead pencil that he used before, and this is that the record may be made more permanent.

Sr. SUMULONG: We have no objection provided that the witness writes the same characters that he has written in pencil.

Mr. Bishop: We will now offer the paper on which the witness has written in lead pencil in Chinese characters the names of Sy Quia, Sy Tiong Quii and Yap Puan Niu, and ask that it be admitted in evidence and marked Plaintiff's Exhibit 5.

Q. Will you please write in Chinese characters the name of Sy Quia?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 1.

Q. Will you now write in Chinese characters the name of Sy Tiong Quii?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 2.

Q. Will you now write in Chinese characters the name of Yap Puan Niu?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 3.

Q. Will you now please write the name of Sy Bi Bo in Chinese characters?

749 Witness writes and attorney for plaintiffs identifies by marking it Name No. 4.

Q. Will you now please write in Chinese characters the name of Ho Gim Niu.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 5.

Q. Will you now please write in Chinese characters the name of Sy Bi Git?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 6.

Q. Will you now please write in Chinese characters the name of Yap Su Niu.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 7.

Q. Will you now please write in Chinese characters the name of Sy Yoe Leng.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 8.

Q. Will you now please write in Chinese characters the name of Sy Chua Niu.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 9.

Q. Will you now please write in Chinese characters the name of Sy Yoe Chay?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 10.

Q. Will you now please write in Chinese characters the name of Sy Jui Niu.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 11.

Q. Will you now please write in Chinese characters the name of Siau Chiong?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 12.

Q. Will you now please write in Chinese characters the name of Siau Hau.

Witness writes and attorney for plaintiffs identifies by marking it Name No. 13.

Q. Do you know a Chinaman by the name of Sy Peng, who lives at Am Thau, China?

A. Yes, sir.

Q. Will you please write in Chinese characters the name of Sy Peng?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 14.

Q. About how old is Sy Peng?

A. More or less seventy years of age.

Q. Do you know Sy Kay Tit of Am Thau, China, pueblo of Na Au?

A. The pueblo of Na Au is very near.

Q. Do you know Sy Kay Tit?

A. I am so many years in the Philippine Islands, that I do not remember.

Q. Do you know Sy Kong Leng of Na Au?

A. I do not know him.

Q. Do you know Sy Hong Oan of Am Thau?

A. Yes, sir.

Q. About how old is Sy Hong Oan?

751 A. More than fifty years of age.

Q. Will you please write the name of Sy Hong Oan in Chinese characters?

Witness writes and attorney for plaintiffs identifies by marking it Name No. 15.

Q. State if you know what relation is Sy Jui Niu, whose name you have written at No. 11, to Siau Hau, whose name you have written at No. 13?

A. Siau Hau is the child of Sy Jui Niu.

Q. Is Sy Jui Niu living or dead?

A. It seems to me that she is still living, but how long I am in the Philippine Islands, twenty-seven years in the Philippine Islands, and I don't know whether she is living or dead.

Mr. Bishop: We now offer in evidence the Chinese characters which have just been written by this witness, and ask that the first paper written in lead pencil, be marked Plaintiff's Exhibit 5, and that the second paper written in ink, be marked as Plaintiff's Exhibit 6.

The Court: There being no objection, they may be received.

Q. What identity is there between Sy Quia whose name you have written in Chinese characters at No. 1, and Sy Tiong Quii, whose name you have written in Chinese characters at No. 2, on Plaintiff's Exhibit 6, to the Vicente Romero Sy Quia whom you have referred to as living in the Philippine Islands?

A. When he came to the Philippine Islands, and became a Christian, there was added to his name the name of Vicente Romero: that is very natural, to add to his name of Sy Tiong Quii, the name of Vicente Romero.

752 Q. What relation if any, is Yap Puan Niu, whose name you have written at No. 3, to the Sy Quia whom you have referred to as having lived in Manila, and whose name you have written at No. 1 of Plaintiff's Exhibit 6?

A. Yap Puan Niu is the legitimate wife of Sy Quia, whom he married in China.

Q. What relation is Sy Bi Bo whose name you have written at No. 4, to the Sy Quia to whom you have just referred?

A. Sy Bi Bo is the son of Sy Quia.

Q. What relation is Sy Bi Bo to Ho Gim Niu, whose name you have written at No. 5?

A. Ho Gim Niu is the wife of Sy Bi Bo.

Q. What relation is there between Si Bi Git, whose name you have written at No. 6, and the Si Bi Bo whom you have just mentioned?

A. Sy Bi Git is the younger, and Si Bi Bo is the oldest son of Sy Quia.

Q. What relation is there between Sy Bi Git and Yap Su Niu, whose name you have written at No. 7?

A. Yap Su Niu is the wife of Sy Bi Git, married in China.

Q. What relation is Sy Yoc Leng, whose name you have written at No. 8, to the Sy Quia to whom you have referred?

A. Sy Yoc Leng is the grandson of Sy Quia.

Q. What relation is Sy Yoc Leng, whose name you have written at No. 8, to Sy Bi Git, whose name you have written at No. 6?

753 A. Sy Yoc Leng is the son of Sy Bi Git.

Q. What relation is there between Sy Yoc Leng, whose name you have written at No. 8, and Yap Su Niu, whose name you have written at No. 7?

A. Yap Su Niu is the mother of Sy Yoc Leng.

Q. What relation is there between Sy Chua Niu, whose name you have written at No. 9., and the Sy Quia to whom you have referred?

A. Sy Chua Niu is the granddaughter of Sy Quia.

Q. What relation is there between Sy Chua Niu, whose name you have written at No. 9., and Sy Bi Git and Yap Su Niu whose names you have written respectively at Nos. 6. and 7.

A. Sy Chua Niu is the child of Sy Bi Git and Yap Su Niu.

Q. What relation is there between Sy Yoc Chay, whose name you have written at No. 10, and Vicente Romero Sy Quia to whom you have referred?

A. Sy Yoc Chay is the grandson of Sy Quia.

Q. What relation is there between Sy Yoc Chay, whose name you have written at No. 10., and Yap Puan Niu, whose name you have written at No. 3?

A. Yap Puan Niu is the grandmother of Sy Yoc Chay.

Q. What relation is there between Sy Yoc Leng and Sy Chua Niu, whose names you have written respectively at Nos. 8, and 9., and Yap Puan Niu, whose name you have written at No. 3.

A. Sy Yoc Leng and Sy Chua Niu are the grandchildren of Yap Puan Niu.

Q. What relation is there between Sy Yoc Chay, whose name you have written at No. 10., and Sy Bi Bo, whose name you have written at No. 4.?

A. Sy Yoc Chay is the son of Sy Bi Bo.

Q. What relation is there between Sy Jui Niu, whose name you have written at No. 11, and the Vicente Romero Sy Quia, to whom you have referred?

A. Sy Jui Niu is the granddaughter of Sy Quia.

Q. What relation is there between Sy Jui Niu, whose name you have written at No. 11., and Sy Bi Bo and Ho Gim Niu, whose names you have written respectively at Nos. 4. and 5.

A. Sy Jui Niu is the daughter of Sy Bi Bo and Ho Gim Niu.

Q. What relation is there between Siau Chiong, whose name you have written at No. 12., and Sy Jui Niu, whose name you have written at No. 11.?

A. Sy Jui Niu is the wife of Siau Chiong.

Q. What relation is there between Siau Hau, whose name you have written at No. 13., and Siau Chiong and Sy Jui Niu, whose names you have written at Nos. 12. and 11., respectively?

A. Siau Hau is the son of Siau Chiong and Sy Jui Niu.

The hearing was then suspended until 8 o'clock, the following morning.

755

JANUARY 10TH, 1907.

Pursuant to adjournment the case was called for hearing at 8 a. m., this day, with the same appearances.

SY HIEN, still on the stand, testified as follows:

Cross-examination by Sr. SUMULONG:

Q. What religion do you profess?

Mr. O'BRIEN: Objected to for the reason that it is incompetent and immaterial, and also not cross-examination, but we are not alleging the second ground.

The COURT: It might be competent, but I do not think it is material whether he is an atheist, a pagan, an idolater, or anything else, so the objection on the ground that it is immaterial will be sustained.

Sr. SUMULONG: Exception.

Q. In what province of China is the pueblo of Am Thau where you were born?

A. In the province of Foochow.

Q. Do you know the following form of taking an oath: to light two candles and burn a paper whereon is written the hour, day month and year in which the one who is taking the oath was born, his name and age being also written on that paper in Chinese characters, and afterwards he has to cut the head of a rooster? Do you know that form of taking an oath?

A. To an "Infel," yes, but the Christians have not got that custom.

756 Q. Are you an "Infel" or a Christian.

A. I am a Christian Catholic.

Q. At the present time?

A. Yes, sir.

Q. Do you not practice any of the ceremonies of the "Infel" worship?

A. No, sir.

Q. How many brothers and sisters did you have in all?

A. Four brothers and one sister.

Q. Were you born from the same mother that Sy Quia was?

A. Yes, sir, from the same mother.

Q. What age had your mother at the time you were born, if you know?

A. I do not remember.

Q. You have stated that Sy Quia was older than you: Will you kindly state how much older he was than you?

A. Unless I see the book I would be unable to tell the difference between the age of Sy Quia and myself.

Q. To what book do you refer?

A. A book in the house in China.

Q. Are you sure that you are fifty-nine years of age now?

A. Yes, sir, I am fifty-nine years of age.

Q. You stated when I asked you about the form of taking an oath

in one of my former questions, that such kind of oath as I read to you was taken by an "Infel": I now ask if you refer to Chinese "Infieles"?

A. All those who are not Christian are "Infel".

Q. My question to you is this: in using the word "Infel" when I asked you about such a form of taking an oath, I want to know if in using the word "Infel" you referred only to Chinese

757 "Infieles"?

A. The American Judges do not use that way in taking oaths.

The COURT: Do they not use it in China?

A. Not even in China.

Q. Where did you know then that form of oath taking?

A. I do not know that way of taking oath, only they know, not me.

Q. You stated not long ago upon reading to you that form of taking oath, that that way of taking oath was done only by Chinese "Infieles", and now you state that you don't know that way of taking oath, nor have ever known it: how do you explain this contradiction?

A. Where did you find that way of taking oath, I don't know of it, I never saw that way of taking oath.

Q. Did you witness the marriage between Sy Quia and Yap Puan Niu?

A. How could I, I was not born at that time.

Q. When you came to Manila, you found Vicente Romero Sy Quia already legitimately married to his wife Petronila Encarnación, is that not so?

A. Yes, sir, when I came to Manila.

Q. Do you refer to the first time you came to Manila?

A. Yes, sir.

Q. Were you present when Sy Bi Bo was born?

A. How could I be, when he is older than I am.

Q. Were you present when Sy Bi Git was born?

A. How could I know of that, there was only one year's difference, I am only one year older than Sy Bi Git.

758 Q. Were you here in Manila at the time Sy Bi Git and Sy Bi Bo died?

A. Yes, sir.

Q. And you were also in Manila at the time Sy Bi Bo and Sy Bi Git got married, is that not true?

A. When Sy Bi Bo got married I was in Manila, but it seems to me that when Sy Bi Git got married, I was in China.

Q. You stated yesterday that between the death of Sy Bi Bo and the death of Sy Bi Git, there only elapsed one year's time, is that not so?

A. It is a long time ago, and I do not remember.

Q. Were you in China and present at the time of the birth of the children of Sy Bi Bo?

A. When I went to China is when I saw the children.

Q. Then when these children were born, you were here in Manila, is that not so?

A. It must be so, because I have not seen their birth.

Q. Were you in Manila when Sy Yoc Chay was adopted by Sy Bi Bo?

A. I was in China, I went to China at that time.

Q. Were you in China and present at the time of the birth of the children of Sy Bi Git?

A. I think so, I do not remember exactly.

Q. Have you seen Yap Puan Niu in China, before you came the first time to Manila.

A. Yes, sir, I lived in the same house.

Q. When you came to the Philippine Islands was Yap Puan Niu already a Christian, or an "Infiel"?

A. There is no Christian in China, it is not used in China.

759 Q. Do you mean to say that at that time she was not Christian but was "Infiel"?

A. The Chinese custom is different from here, she is "Infiel".

Q. Did she become Christian at any time?

A. Christian is not used in China.

The COURT: The question is: do you know if she became a Christian at any time?

A. She did not become a Christian at any time.

Q. You have stated before that Sy Yoc Chay and Sy Yoc Leng, when they came to Manila, were sent to school at the expense of Sy Quia: to what school were they sent?

A. To a private school at Calle Elcano.

Q. A Chinese school?

A. No, a Spanish school.

Q. You also stated yesterday that you knew that Sy Yoc Chay and Sy Yoc Leng were sent to school at the expense of Sy Quia, and you knew that fact because the money for these expenses sometimes passed through your hands, given to you by Doña Petronila Encarnación: are you sure of that?

A. Yes, sir, sometimes the money was given to me to pay these expenses.

Q. Was the money given to you by Doña Petronila Encarnación herself?

A. Yes, sir, in the house at Santo Cristo.

Q. In what house was Sy Yoc Chay and Sy Yoc Leng living during the time they were living here in Manila?

A. Always at the house at Santo Cristo.

Q. To whom did that house at Santo Cristo belong?

A. That was the house of Doña Angela, she was the landlord.

760 Q. You have stated that when Sy Yoc Chay and Sy Loc Leng came to Manila, that Sy Quia was living in that house?

A. I do not remember very well whether he was living at Calle Jolo, or where.

Q. Where was Sy Quia living when Sy Yoc Leng came to Manila the first time?



A. I cannot remember exactly, I am unable to state.

Q. You stated yesterday that you took Sy Yoc Leng to the house of Sy Quia the first time he came to Manila, and how is it that you do not remember now?

A. It is such a long time ago that I cannot remember.

Q. Then how is it that you remember that you took Sy Yoc Leng to the house of Sy Quia, if it is such a long time ago?

A. When?

Q. Did you not testify that when Sy Yoc Leng came to Manila the first time, you introduced him in the house of Sy Quia?

A. I cannot remember, but being his grandson he must have been introduced and presented to him, that is very natural.

Q. In whose house did you live the first time you came to Manila?

A. In the house of Sy Quia at Calle Santo Cristo.

Q. How long were you living in that house?

A. I cannot tell exactly how many years I lived there, it is a long time ago, and sometimes I used to go to the provinces and sometimes to China, and sometimes I was here in Manila.

Q. Why did Sy Yoc Chay come to Manila?

A. To make a living, as well as to look for his grandfather.

761 Q. Is it not true that Sy Yoc Chay came to Manila the first time to become an employee or servant of Sy Ty?

A. He lived in the house.

Q. Did he not receive a certain salary from Sy Ty, is that not so?

A. No, sir, no salary.

Q. What kind of work did Sy Yoc Chay perform in the house of Sy Ty?

A. He used to help in cleaning the house, and sometimes he was sent on messages.

Q. How old was Sy Yoc Chay when he came to Manila the first time?

A. I do not know how old he was.

Q. Can you not tell us approximately?

A. Twenty years or so.

Q. How old was Sy Yoc Leng the first time he came to Manila?

A. About fourteen years of age.

Q. So you mean to say that Sy Yoc Chay and Sy Yoc Leng went to school at Manila at the ages of twenty and fourteen, respectively?

A. It must be so, they were together and they went to school.

Q. In what house was Sy Quia living at the time when Sy Yoc Chay and Sy Yoc Leng arrived at Manila?

A. I am unable to remember, it is such a long time ago.

Q. In whose house did Sy Yoc Chay and Sy Yoc Leng live when they came to Manila the first time?

A. At the house of Sy Ty.

Q. Is it not true that when Sy Yoc Chay and Sy Yoc Leng came to Manila the first time, Sy Quia was living with his family

762 at Calle Jaboneros?

A. I do not remember very well, because Sy Quia also lived before at Calle Jaboneros.

Q. Is it not true that Sy Quia and his family lived in a different house altogether from where Sy Ty was living, at the time when Sy Yoc Chay and Sy Yoc Leng came to Manila the first time?

A. Yes, sir, because he was living at Calle Jaboneros and then afterwards removed to Calle Jolo: I do not remember exactly how it was.

Q. To what occupation or employment did Sy Yoc Chay and Sy Yoc Leng devote themselves the first time they came here to live at the house of Sy Ty?

A. The first time they came to Manila they went to school.

Q. What was the first occupation that Sy Yoc Leng had after he came to Manila?

A. He looked after a wine store, and probably he went to the provinces to buy some tobacco leaf.

Q. What was the first occupation of Sy Yoc Chay after he came to Manila?

A. Nothing, he went to Malolos and stayed there some time, then came to Manila and stayed here some time, and he would go again to Malolos, and so on.

Q. How long did Sy Yoc Chay and Sy Yoc Leng remain at school?

A. It is such a long time ago that I cannot tell, I cannot remember that.

Q. You have stated that you yourself sometimes paid the expenses of the education of Sy Yoc Chay and Sy Yoc Leng: will you  
763 kindly state who was the teacher who had charge of their education?

A. I do not know, I do not remember, I never went to the school.

Q. To whom did you turn over the money for payment of the education of Sy Yoc Chay and Sy Yoc Leng?

A. I turned it over to themselves.

Q. Do you mean to say that you turned the money over to Sy Yoc Chay and Sy Yoc Leng?

A. Yes, sir.

Q. Can you tell us whether the school which Sy Yoc Chay and Sy Yoc Leng attended was a public school, or a private school?

A. I do not know whether it was a public school or a private school.

Q. Who was that took Sy Yoc Chay and Sy Yoc Leng to the school?

A. Their grandfather.

Q. After you had come to Manila how many times did Sy Quia go to China?

A. I remember his going to China once to bury our parents, I do not remember of any other time?

Q. Did you not go with him to China at that time?

A. I did not, I remained here, I went to the Provinces.

Q. You have stated that in China after a person is dead he is known by a different name altogether?

A. Yes, sir, it is sometimes so, because sometimes a person desires to change his name, and sometimes not.

Q. Did you not state yesterday that always and on all occasions after the death of a person, the name is always changed?

A. Not always, that depends on the will of the deceased, sometimes it is desired to change the name, and sometimes it is not.

Q. You stated yesterday that the new name the person is known by after his death was inscribed on the tombstone where his body rests?

A. Not on all occasions; if one desired the new name to be written on the tombstone it is so done, but if not it is not done. It depends altogether on the pure and voluntary will of the deceased.

Q. Did you live in the house of Sy Quia when he was living at Calle Jaboneros with his family?

A. I did not, I was living at the house of Sy Ty at that time.

Q. Did any of the brothers of Sy Quia live with him at the time he was living at Calle Jaboneros together with his family, or in China?

A. No, sir, only him and his family.

Q. When Sy Quia lived at Called Jolo, you were not living with him, nor any of his brothers, nor in China, is that not so?

A. I never lived there with him.

Sr. SUMULONG: That is all.

Cross-examination by Sr. LEGASPI:

Q. By what other name was Sy Quia known in China?

A. As Sy Quii and Sy Tiong Quii.

Q. Did you know in China any one by the name of Sy Quian, or Sy Kian?

A. No, sir.

Q. You do not know?

A. It is a long time since I have been here in Manila, it is now twenty-seven years.

Q. But during your early life, when you lived in China, did you not know any one by the name of Sy Quian or Sy Kian?

A. I do not remember such a name, I am so long a time in the Philippine Islands, how can I remember that.

Q. After you were born how long did you remain in China before coming to the Philippine Islands.

A. I was twelve years old when I came to the Philippine Islands.

Q. Do you remember more or less how old you are now?

A. According to my cedula I am fifty-nine years of age.

Q. Where did you know Sy Quia for the first time?

A. Here in Manila.

Q. Do you remember what year it was?

A. It is a long time ago, I do not remember.

Q. By what name was Sy Quia known here in Manila the first time you knew him?

A. By the name of Sy Quia also.

Q. Is it not true that he was also known by the name of Vicente Romero Sy Quia?

A. We Chinese here are in the habit of calling our countrymen

by their Chinese names, and the foreign name given to them, we only use among foreigners, and never amongst the Chinese.

Q. So then Sy Quia was known by the foreigners when you first knew him, as Vicente Romero Sy Quia?

A. Yes, sir, he was known by them as Vicente Romero Sy Quia, and he always signed as Vicente Sy Quia.

765 Q. When you came to the Philippine Islands with whom was Sy Quia living here in Manila.

A. The first time I came here he was living at Calle Santa Cristo with his family.

Q. Do you refer to Doña Petronila Encarnación and her children as his family?

A. Yes, sir, Doña Petronila Encarnación, but all the children were not there, some were not in Manila, and some went to Ilocos, and so on.

Q. You stated yesterday, that upon your arrival in the Philippine Islands, you stayed at the house of Sy Quia, is that not so?

A. Yes, sir, that is so.

Q. How long did you live at that time in the house of Sy Quia?

A. That is hard for me to tell, I cannot remember, because sometimes I went to Iloilo, and sometimes to Cebu, and to other provinces.

Q. Do you know Mi Bo?

A. I know Bi Bo, but I do not know Mi Bo.

Q. So you mean to say that Mi Bo is a different person altogether from Bi Bo?

Mr. BISHOP: Objected to as not proper cross-examination, as the name Mi Bo has never been mentioned.

The COURT: It is proper cross-examination for the purpose of testing the correctness of the statements of the witness in regard to Bi Bo, it does not amount to anything, it is merely technical, but the witness may answer.

767 A. I do not know whether they are different persons, but the name Mi Bo is different from the name Bi Bo.

Q. Did you know Mi Git?

A. Of course I know him, he was together in the house in China: Sy Bi Bo and Sy Bi Git are my nephews.

Q. I am not asking about Sy Bi Bo and Sy Bi Git, I am asking about Mi Git?

A. I did not know Mi Git.

Sr. LEGASPI: That is all.

Cross-examination by Sr. ROSADO:

Q. Is it not true that Vicente Romero Sy Quia did not know how to write Chinese characters; that he only knew how to sign his name in Chinese characters, and did not know how to write any other word?

A. He knew how to read Chinese, and it is to be supposed he knew how to write Chinese. He was an old man afterwards and per-

haps did not know how to write when he was an old man. Why should he not know how to write?

Q. Is it not true that you know that the Chinese "Infeles" take the oath the same way that was read to you by Sr. Sumulong?

A. I am not an attorney, why should I know that.

Sr. ROSADO: That is all.

SY QUI QUION, called in behalf of the plaintiffs, testified as follows:

Examination by the Court:

Q. What is your nationality?

A. Chinese.

768 Q. Have you as a Chinaman any particular way in which you affirm or swear?

A. I am so long a time in the Philippine Islands, that I do not know whether there is any other way or form of administering the oath to Chinese.

Q. Have you ever become a member of the Christian church in the Philippine Islands?

A. I am a native of China.

Q. When you wish to make a statement in Court do you have in accordance with the customs of the people to whom you belong, and which you have known, any particular form or ceremony in doing it?

A. The way our custom in China of taking an oath, in the town where I belong to, is to take it before the image of a saint, or idol, promising to testify and state nothing else but the truth. That is all the custom of the people to whom I belong.

Q. What is the saint in your pueblo?

A. Any kind of saint, no matter what saint, I could take the oath in the presence of any saint.

Q. Have you ever had an oath administered to you in China?

A. No, sir.

Q. Did you ever have an oath administered to you in the Philippine Islands?

A. Here, yes, by lifting up my right hand.

Q. Stand up and I will give you a sworn oath.

Witness stands up.

Q. Raise your right hand.

Witness raise his right hand.

769 Q. You do solemnly swear by all the saints in China that the declaration which you make in this case, is the truth, and nothing but the truth.

A. I do.

The COURT: Proceed with the examination, Mr. Bishop.

Sr. ROSADO: We insist that the oath be administered to this witness in accordance with his religion, he being "Infeles".

-The COURT: I have administered the oath to this witness "by all the saints in China", which is the oath he seems to recognize.

Sr. ROSADO: Exception.

Direct examination by Mr. BISHOP:

Q. Please state your name?

A. Sy Qui Quion.

Q. Where do you live?

A. At Calle Jaboneros.

Q. What number?

A. No. 213.

Q. What is your occupation?

A. Employee.

Q. How old are you?

A. Fifty years of age.

Q. Where were you born?

A. In China.

Q. What town?

A. Am Thau.

Q. Where is Am Thau in reference to Amoy?

A. It is very near one hour's walk from Amoy.

770 Q. In what province is Am Thau?

A. Province of Amoy.

Q. What is the capital of that province?

A. Hoc Chow is the capital, because in Hoc Chow there is a mandarin, the similarity is this: Hoc Chow is like Manila and Amoy like Cebu.

Q. How long have you been in the Philippine Islands?

A. At the present time over thirty years.

Q. How old were you when you first came to the Philippine Islands?

A. Fifteen years of age, and after staying in Manila three years I went back to China.

Q. How long did you stay in China that time?

A. Ten months.

Q. Then where did you go?

A. I returned here to Manila.

Q. Have you returned to China since that time?

A. No, sir.

Q. Did you know a man by the name of Don Vicente Romero Sy Quia in Manila?

A. Yes, sir, I knew him because my grandfather and his grandfather are brothers, therefore Sy Quia and myself are like cousins.

Q. When did you first know Vicente Romero Sy Quia?

A. The first time I knew him I was in China, I was about nine or ten years old.

Q. Where did you know him in China?

A. Once he went to China and came to visit my father, and then my father informed me that Sy Quia was my cousin.

771 Q. How far was your father's house from the house of Sy Quia in Am Thau, China?

A. About double the distance to that house out there (indicating a house about twenty rods distant).

Q. By what name did you know him in Am Thau, China?

A. Who do you mean?

Q. Don Vicente Romero Sy Quia?

A. Some people called him Sy Quia and some people called him Sy Quii.

Q. Did he have any other Chinese name other than Sy Quia or Sy Quii?

A. No, sir.

Q. Where is Sy Quia now?

A. He is dead now.

Q. When did he die?

A. Thirteen or fourteen years ago I believe.

Q. Where did he die?

A. Here in Manila.

Q. Where is he buried?

A. In the cemetery. I did not follow his funeral to the grave, I only went as far as the church, but my brother went to the grave.

Q. About how old were you when you first knew Sy Quia in Am Thau?

A. I was a boy, between nine and ten years of age I believe, when I knew him at Am Thau, China.

Q. Did Sy Quia have any brothers and sisters?

A. Yes, sir.

772 Q. Give the names of the brothers?

A. Sy Ty, Sy Tiap, and Sy Hien, they were four in all.

Q. How many sisters did he have?

A. One sister.

Q. Give her name?

A. Sy Chiu Niu.

Q. Was Sy Quia married or single?

A. Married.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did Yap Puan Niu live?

A. She lived in the house of Sy Quia.

Q. Did Don Vicente Romero Sy Quia and Yap Puan Niu have any children?

A. Yes, sir, he had two sons, and when I was a boy I used to go to school with his two sons.

Q. Who was the older, you or the boys of Sy Quia?

A. The boys of Sy Quia were older than me.

Q. How much older than you were they?

A. One of them was ten or eleven years older than me, that was Sy Bi Bo, and Sy Bi Git was eight or nine years older than me.

Q. What do you say was the name of the older one of the boys?

A. Sy Bi Bo was the oldest one, and the second one was Sy Bi Git.

Q. What was the family name of Sy Bi Bo and Sy Bi Git?

A. I know their names are Sy Bi Bo and Sy Bi Git, but the Chi-



nese custom is when you go to school as a student you have a secret name, and that name I do not know.

773 Q. What was the surname of the two boys of Sy Quia?

A. Sy.

Q. Where is their mother, Yap Puan Niu, now?

A. She is dead.

Q. About when did she die?

A. I believe about ten years ago, I am not sure, I was here at the time, and was only informed that Yap Puan Niu died in such a year.

Q. State if you know who died first Don Vicente Romero Sy Quia or Yap Puan Niu?

A. Yap Puan Niu died first.

Q. Who lived in the house of Sy Quia in Am Thau?

A. The family of his brothers the families of Sy Ty, Sy Tiap and Sy Hien.

Q. Where is Sy Hien now?

A. Here in Manila, that is the witness who has just left the stand.

Q. What relation was he to Sy Quia?

A. Brother, Sy Quia was the oldest brother.

Q. How old was Sy Bi Bo in reference to your age?

Sr. SUMULONG: Objected to as already answered.

The COURT: Objection sustained.

Q. Where is Sy Bi Bo now?

A. He is dead also.

Q. Where did he die?

A. In China.

Q. When did he die?

A. I remember he is dead now about twenty-four or twenty-five years, Si Bi Git died first and afterwards Sy Bi Bo.

774 Q. Was Sy Bi Bo married or single at the time of his death?

A. Married.

Q. How do you know that he was married?

A. Because I was in China at the time Sy Bi Bo and Sy Bi Git were married.

Q. What was the name of the wife of Sy Bi Bo?

A. Ho Gim Niu.

Q. Where is Ho Gim Niu now?

A. She is also dead.

Q. Where did she die?

A. In China.

Q. When did she die?

A. I don't know whether it was ten years ago, or not. She also died in China, and I was here in Manila, I was only informed by my relatives of her death, and I believe at the present time it was about thirteen or fourteen years ago.

Q. Did Sy Bi Bo and his wife Ho Gim Niu have any children?

A. Yes, sir, he had a son who died when a few months old, and then afterwards he took another one and adopted it as his son.

Q. What is the name of the adopted son?

A. Sy Yoe Chay.

Q. Where is Sy Yoe Chay now?

A. Here in Manila.

Q. Is he in the court-room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the plaintiff Sy Yoe Chay).

Q. Did Sy Bi Bo and Ho Gim Niu have any other children?

775 A. A daughter and a boy.

Q. And the boy is the one you referred to as having died when a baby, is that right?

A. Yes, sir.

Q. What is the name of the daughter of Sy Bi Bo and Ho Gim Niu?

A. Sy Jui Niu.

Q. Where is Sy Jui Niu now?

A. She is now in China, and I have been so long away from China that I do not know anything about her.

Q. Do you know if she is living or dead?

A. According to information received from my relatives, she is still alive up to the present time.

Q. Do you know whether she has any children or not?

A. Who do you mean?

Q. Sy Jui Niu.

A. I do not know.

Q. When did you first see the adopted son, Sy Yoe Chay?

A. He was a small boy, about three or four years of age, when I first saw him. Sy Bi Bo told me that that was his son, and that the other one, Sy Yoe Leng, was the son of Sy Bi Git.

Q. Did you see the sister of Sy Yoe Chay, Sy Jui Niu?

A. I have not seen her, I am a long time in the Philippine Islands.

Q. Where did Sy Bi Bo and his wife Ho Gim Niu live?

A. They lived in the house of Sy Quia.

Q. In what village?

A. Am Than.

776 Q. Where is Sy Bi Git now?

A. He is dead.

Q. About how long ago did he die?

A. About twenty-four or twenty-five years ago.

Q. Where did he die?

A. In China.

Q. Was he married or single when he died?

A. Married.

Q. How do you happen to know that fact?

A. Because when he got married I was in China, and I saw that woman with whom he got married.

Q. What is the name of his wife?

A. Whose wife?

Q. The wife of Sy Bi Git?

A. Yap Su Niu.

Q. Where is Yap Su Niu now?

A. Now she is dead.

Q. Where did she die?

A. In China.

Q. When did she die?

A. About twenty or twenty-one years ago, something like that.

Q. Did Sy Bi Git and Yap Su Niu have any children?

A. Yes, sir.

Q. How many?

A. A boy and a girl.

Q. What is the name of the boy?

A. Sy Yoe Leng.

Q. Where is he now?

A. Here in Manila.

777 Q. Is he here in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the plaintiff Sy Yoe Leng).

Q. Where is the daughter of Sy Bi Git?

A. I do not know her, I did not go back to China, it is a long time ago.

Q. When did you first see Sy Yoe Leng?

A. The time when I went back to China I believe he was about two years old when I saw him.

Q. Where did you see him?

A. In his house.

Q. When did you first see Sy Yoe Chay in Manila?

A. The first time I saw him in Manila, when I came, he was a big boy.

Q. About how old was he?

A. About twenty years old.

Q. When did you first see Sy Yoe Leng in Manila?

A. I believe it was about twenty years ago, that I saw him here for the first time, when he came to Manila together with his grandmother.

Q. What was the name of his grandmother?

A. Yap Puan Niu.

Q. What relation if any was this Yap Puan Niu to the Don Vicente Romero Sy Quia whom you have testified about?

A. She was the wife of Sy Quia.

Q. Did you ever see Yap Puan Niu in Manila?

A. Yes, sir, I used to visit her and go to the house of Sy Ty.

Q. Why did you visit Yap Puan Niu?

A. As my relative, the wife of my cousin.

778 Q. How many times was she in Manila?

A. As far as I remember, only once.

Q. How long did she stay here?

A. I believe about four months, and afterwards returned to China.

Q. At the time that Yap Puan Niu was visiting at the house of Sy Ty, what other persons lived there?

SR. SUMULONG: Objected to on the ground that it is leading and presumptive.

The Court: Objection sustained.

Q. Where did Yap Puan Niu live while in Manila?

A. In the house of Sy Ty.

Q. What relation was this Sy Ty to Sy Quia?

A. Sy Ty and Sy Quia are brothers.

Q. During the time that Yap Puan Niu was in Manila, did you see Don Vicente Romero Sy Quia?

A. Yes, sir.

Q. Where would you see him?

A. I was a boy at that time, and sometimes visited him in his house at Calle Jahoneros.

Q. While Yap Puan Niu was in Manila did you see Don Vicente Romero Sy Quia?

A. Yes, I saw him, because when I used to visit Yap Puan Niu I sometimes found Sy Quia sitting there.

The hearing was then suspended until 8 o'clock the following morning.

779

JANUARY 11TH, 1907

Pursuant to adjournment the case was called for hearing at 8 o'clock this morning, with the same appearances.

SY QUI QUION, still on the stand, testified as follows:

Direct examination by Mr. BISHOP:

Q. Did you know a native woman in Manila by the name of Petronila Encarnación?

A. Yes, sir.

Q. Are you acquainted with the defendant in this case, Gregorio Sy Quia?

A. Yes, sir.

Q. Are you acquainted with the defendant in this case, Pedro Sy Quia?

A. Yes, sir.

Q. Are you acquainted with the defendant in this case, Juan Sy Quia?

A. Yes, sir.

Q. Do you know whether these three parties had any sisters, or not?

A. I know that they have sisters.

Q. How many sisters did they have?

A. Two.

Q. What is the name of the oldest sister?

A. Ay Ang.

Q. Was that her real name or her nickname?

780 A. I do not know her real name, but all my countrymen called her by the name of Ay Ang.

Q. What is the name of the other sister?

A. Ang Gi.

Q. Do you know whether that was her real name or her nickname?

A. I do not know, I only heard every one calling her Ang Gi.

Q. Who was the oldest of these five brothers and sisters?

A. Ay Ang.

Q. If Ay Ang were living now, about how old would she be?

A. I believe up to the present time she is dead about six or seven years, I do not remember exactly how long.

Q. How old would she be now if she were living?

A. She would be over fifty years of age.

Q. Who was older, Ay Ang, or Sy Bi Bo?

A. Sy Bi Bo was the older of the two.

Q. How much older was Sy Bi Bo than Ay Ang?

A. Sy Bi Bo was six or seven years older than Ay Ang.

Q. Where did you live in Manila in reference to the house of Sy Ty, that you have testified about?

A. I lived very near the house of Sy Ty; at that time I was living at Santo Cristo.

Mr. Bishop: That is all.

Cross-examination by Sr. SUMULONG:

Q. Where were you born?

A. In China.

Q. In what pueblo of China?

A. Am Thau.

Q. How old were you the first time you came to Manila?

A. I was fifteen years old.

781 Q. What is the name of your father?

A. Sy Chiong Sun.

Q. What is the name of your grandfather?

A. Sy Tan Lim.

Q. What is the name of the father of your grandfather?

A. I was too small when I came to the Philippine Islands, and my father did not inform me as to the name of the father of my grandfather.

Q. Did you know Sy Quia when you came to Manila the first time?

A. Yes, sir.

Q. Where did you know him?

A. At Calle Jaboneros.

Q. Before that time you knew Sy Quia at Calle Jaboneros, did you know him any where else?

A. Yes, sir.

Q. Did you know him before coming to Manila the first time?

A. The first time I knew him was in China before coming to the Philippine Islands, I knew him when I was a small boy.

Q. What was your age when you knew Sy Quia in China?

A. A few months after I had known him in China I came to the Philippine Islands, I was about fifteen years of age when I came here.

Q. What was the age of Sy Quia when you knew him in China?

A. He must have been some forty or some forty odd years of age.

Q. When you arrived in Manila, was Sy Quia living at Calle Jaboneros at that time?

782 A. Yes, sir, when I arrived in Manila I saw that Sy Quia was living at Calle Jaboneros.

Q. And after living at Calle Jaboneros, where did Sy Quia go to live?

A. At Calle Jolo.

Q. With whom was Sy Quia living at Calle Jaboneros?

A. Together with his family.

Q. Who were the members of his family, if you remember?

A. The wife of Sy Quia, and his sons and his daughters.

Q. What is the name of that wife of Sy Quia to whom you refer?

A. La Lang.

Q. Do you know the real name of La Lang?

A. Her real name, as I heard from people, was Petronila Encarnación.

Q. What are the names of the sons and daughters of Petronila Encarnación and Sy Quia, to whom you have just referred?

A. The sons were named Gregorio, Pedro and Juan.

Q. And the daughters?

A. Ay Ang.

Q. Who else?

A. Ang Gi.

Q. What is the distance of your father's house from the house where Sy Quia lived, at Am Thau, China.

A. As I have already stated, about as far as from here to the house out there, I mean double that distance.

The COURT: The distance of that house is about twenty rods, and the witness has stated that it is double that distance.

Q. As a matter of fact, did your father ever live in the same house with Sy Quia?

A. No, sir, my father has a different house altogether.

783 Q. Did you ever live together with Sy Quia in the same house?

A. No, sir, I lived in the house of my father.

Q. Is it not a general rule in China that there lives in the house not only the husband and wife, but generally all those who come from the same grandfather?

A. The custom in China is this, that if the family is growing and there are plenty of children, that they must give them another house.

Q. Do you know whether or not your father knew his grandfather?

A. I do not know, my father died very old, about nin-ty years of age, and I cannot tell you about that.

Q. Have you ever been in the house of Sy Quia at Am Thau, China?

A. Yes, sir, when I was a boy I used to visit the house of Sy Quia.

Q. Besides Sy Quia what other persons were living in that house?

A. The family of Sy Hien, the family of Sy Ty, and some of their relatives, because the house was a large house.

Q. Is it not true that besides the families of Sy Hien and Sy Ty, there were living there the families of his cousins, and other distant relatives, in the same house?

Q. The family of Sy Hien and the family of Sy Ty also lived in the house with Sy Quia.

Q. My question is this: is it not true that at the time when you used to go to that house of Sy Quia, that besides the families of Sy Hien and Sy Ty there were also living there the families of his cousins and his uncles, and some other distant relatives?

784 A. The house is a large one, and the whole family lived there.

Q. How many husbands and wives lived in that house when you were there?

A. I have been such a long time in the Philippine Islands that I do not remember exactly, I only remember the families of Sy Hien and Sy Ty.

Q. And besides the families of Sy Hien and Sy Ty who else lived in that house?

A. There were also some other families living there, but it is such a long time ago, that I do not recollect their names.

Q. About how many other families were living in that house besides the families of Sy Hien and Sy Ty?

A. It is such a long time ago, that I hardly remember who they were, or how many families, but I do remember that there were some other families living there.

Q. Do you not remember the names of the heads of those families, or any of those families which you have just mentioned?

A. No, sir, I do not remember, it is a very long time since I have been in the Philippine Islands, and I was quite a small boy then.

Q. Were you here in Manila, or at Am Thau, China, at the time Sy Yoc Chay was adopted?

A. I was here in Manila.

Q. You have stated that besides the families of Sy Hien and Sy Ty living in the house of Sy Quia at Am Thau, there were other families living in the house: can you state if those other families were also relatives of Sy Hien, Sy Ty and Sy Quia?

A. I do not remember, at that time I was a small boy.

785 Q. How many times have you been in the house of Sy Quia in China?

A. I do not remember how many times, I was a boy at that time, and I do not remember how often, but I went there from time to time.



Q. When you were about fourteen or fifteen years of age, did you also go to the house of Sy Quia in China?

A. Yes, sir, I used to go there when I was fourteen years of age, but when I became fifteen years of age, I came to the Philippine Islands.

Q. How long were you living in Manila the first time before you went back to China?

A. I stayed here three years before I went back to China.

Q. And were Sy Bi Bo and Sy Bi Git married when you left China the first time?

A. Yes, sir, they were already married.

Q. When did you know Sy Yoc Leng here in Manila for the first time?

A. After being here for three years I went back to China, and I met the father and the father told me that he had a boy a few months old, and that he had adopted Sy Yoc Chay, and at that time he told me that Sy Yoc Leng was the son of Sy Bi Git.

Q. Who told you all that: Sy Bi Bo or Sy Bi Git?

A. Sy Bi Bo.

Q. Is it not true that when Sy Bi Bo informed you of that in China that Sy Yoc Chay and Sy Yoc Leng were here in Manila, is that not so?

A. No, sir, they were in China, when Sy Bi Bo informed me of that fact, and at that time Sy Yoc Chay and Sy Yoc Leng were small boys, between the ages of three and four.

786 Q. What would be the age then of Sy Yoc Chay and Sy Yoc Leng the first time you went back to China and had this conversation with Sy Bi Bo?

A. I believe Sy Yoc Chay was about three or four years old and Sy Yoc Leng about two years or so.

Q. I believe I remember you stated that the first time you left China, Sy Bi Bo and Sy Bi Git were already married?

A. Yes, sir, they were already married.

Q. How many years was Sy Bi Bo married the first time you left China for the Philippine Islands?

A. I do not remember exactly how many years he had been married when I came to the Philippine Islands, it is such a long time ago, but I believe I was about twelve or thirteen years of age when he got married.

Q. Who married first, Sy Bi Bo or Sy Bi Git?

A. Sy Bi Bo married first.

Q. How many years after Sy Bi Bo got married, was it when Sy Bi Git got married?

A. I believe it was not very long, a year or two and then Sy Bi Git got married.

Q. Where did you know for the first time Sy Yoc Chay and Sy Yoc Leng?

A. In China I saw them, when they were very small boys.

The COURT: This has been answered two or three times already.

Q. Were you in China or Manila at the time of the death of Sy Mi Bo?

A. I was here in Manila.

Q. Were you also in Manila when Sy Bi Git died?

A. Yes, sir.

787 Q. When you saw for the first time Sy Yoc Chay in Am Thau, a very small boy, was he the only son at that time of Sy Bi Bo?

A. I do not know, when I arrived in China Sy Yoc Chay was about three or four years old, and I was informed by his father that he had a boy who died when a few months old, and that for that reason he had taken Sy Yoc Yoc Chay and adopted him as his son.

Q. When you knew Sy Yoc Leng the first time in China, a small boy then was he the only son of Bi Git at that time?

A. I cannot tell you, because I stayed in China a very short time on that occasion when I knew Sy Yoc Leng, and two years after I returned to the Philippine Islands I heard that Sy Bi Git had a daughter.

Q. Were Sy Jui Niu and Sy Chua Niu ever in Manila?

A. I have never seen them in Manila.

Q. Did you ever know Sy Jui Niu and Sy Chua Niu?

A. I do not know them, I was only informed about their being born.

Q. Is it not true that you never knew the children of Sy Bi Bo and Sy Bi Git, in China, and that you only had an opportunity of knowing them, that is Sy Yoc Chay and Sy Yoc Leng, upon their coming to Manila, and that you only knew Sy Yoc Chay and Sy Yoc Leng in Manila.

A. I knew them before they came to Manila, because when I saw them in China they were small boys, and when I saw them in Manila they were grown up.

Q. How many years is Sy Yoc Chay living in Manila?

A. At the present time over ten years.

788 Q. How long a time has Sy Yoc Leng lived in Manila?

A. I believe he is about twenty or twenty-one years here in

Manila.

Q. Were you in Manila when Vicente Romero Sy Quia died?

A. Yes, sir, I was here.

Q. When Vicente Romero Sy Quia died, Sy Yoc Chay and Sy Yoc Leng were already here in Manila, is it not so?

A. It is such a long time ago that I do not remember whether they were here in Manila, or not.

Q. You have stated that you knew Sy Yoc Chay and Sy Yoc Leng when they were small boys in Am Thau, China, and that afterwards you saw them here in Manila: how can you be certain that the Sy Yoc Chay and Sy Yoc Leng whom you saw in Manila already grown up are the same Sy Yoc Chay and Sy Yoc Leng that you knew in China when they were small boys?

A. Because they were my relatives, and for that reason I know.

Q. When you came to Manila for the first time, how old were Gregorio, Pedro and Juan Sy Quia?

A. Gregorio and Pedro were I believe a couple years older than me, and Juan a couple of years younger than me, that is a calculation that I make.

Sr. SUMULONG: That is all.

Cross-examination by Sr. LEGASPI:

Q. You stated yesterday, is it not so, that when you were a boy six years of age about you went to school and that Sy Bi Bo and Sy Bi Git used to go to school together with you?

A. Yes, sir, I went to that school.

789 Q. I remember your stating yesterday, is it not true, that Sy Bi Bo was ten years of age, and Sy Bi Git eight years old at that time?

A. I don't know exactly how much older they were than myself, it is only a calculation of mine, Sy Bi Git might have been eight or nine years of age, and Sy Bi Bo ten years or so, but this is not exact, it is only my calculation.

Q. How many years were you going to school together with Sy Bi Bo and Sy Bi Git before you came to the Philippine Islands?

A. About one year after being in school together, Sy Bi Bo got married, and then one year or so after that Sy Bi Git got married, and shortly after that, when I was about fifteen years old, I came to the Philippine Islands.

Q. Do you mean to say by that after being one year together with them at this school, they got married, and that you afterward continued going to the school alone, by yourself?

A. No, sir, not only me but some other boys were studying besides me.

The Court: The question is whether after Sy Bi Bo and Sy Bi Git got married you continued going to the school?

A. I continued going to the school with the other children, but they stopped going when they got married.

Q. How many years had you ceased going to school when you came to Manila?

A. I stopped going to school, I believe, a short time after Sy Bi Bo and Sy Bi Git stopped, and was about one year without going to school before I came to the Philippine Islands, and then I was about fifteen years old.

790 Q. Is it not true also that you stated yesterday that from the time you first came to the Philippine Islands up to the present time you are about thirty years in the Philippine Islands?

A. Over thirty years.

Q. In stating you were over thirty years here, can you state approximately how many months more, or years more than thirty years it was?

A. According to my calculation, I believe about thirty-five or thirty-six years, something like that.

Q. Do you remember how long you had been in the Philippine

Islands before you knew the children of Vicente Romero Sy Quia with Petronila Encarnación for the first time?

A. Upon my arrival I knew these children, we were living very near together, they lived at Calle Jaboneros and I lived at Calle Santo Cristo.

Q. So you mean to say that in the year 1876 you knew already the children of Sy Quia with Petronila Encarnación?

A. As far as I remember, I must have known them, or about that time, because a few months after my arrival I became acquainted with Sy Quia, his children, and even his wife, La Lang.

Q. Were the children of Vicente Romero Sy Quia and Petronila Encarnación already married at that time when you knew them?

A. It is such a long time ago that I cannot remember and because at that time I used to go to the provinces, and then come back to Manila, and then go back to the provinces again, and for that reason I cannot remember.

791 Q. Did you go very often to visit the family of Sy Quia at their house?

A. Which house do you mean, the house at Calle Jaboneros, or the house at Calle Jolo?

Q. I mean the house at Calle Jaboneros.

A. When I was newly arrived in Manila and he was living at Calle Jaboneros I used to visit him and when my brother arrived we had a store at Santo Cristo, a clothing store, and then I used to visit Sy Quia at Calle Jolo.

Q. Did you treat personally with his children?

A. No, I did not talk with them, when I used to go to the house and had any business I talked with Sy Quia or their mother, La Lang.

Q. Do you know in what Chinese year you were born?

A. I do not remember in what year, I was a small boy when I came to the Philippine Islands, and I do not remember in what year I was born.

Q. Where are you employed now?

A. At Calle Jaboneros.

Q. Are you working for yourself, or are you employed by somebody else.

A. I am an employee.

Q. What is your name of your principal?

A. Sy Yoc Chieng.

W. What is your true name?

A. Sy Qui Quion.

Q. Is that the name in your cedula?

A. Yes, sir.

792 Q. Can you tell us how old you are in accordance with your cedula?

A. Last year I was forty-nine, and now this year I must be fifty: there is no new cedula yet.

Q. Were you present at the marriage ceremonies of Sy Bi Bo and Sy Bi Git in China?

A. Yes, sir, I was present.

Q. Is it the custom in China to invite school boys to marriages or weddings?

A. If you are a relative you are invited also.

Q. Was it day-time or night time?

A. Day time.

Q. Is it not true that you were at school when these marriage ceremonies took place?

A. Yes, sir.

Q. Do you know how many times Sy Bi Bo got married?

A. I only know of one time.

Q. And what did you learn by hearsay from others as to how many times he got married?

A. Who.

Q. Sy Bi Bo.

A. I did not hear anything from others.

Q. Do you know how many times Sy Bi Git got married?

A. I only know of once.

Sr. LEGASPI: That is all.

Redirect examination by Mr. BISHOP:

Q. What were you doing when Sy Bi Bo and Sy Bi Git got married?

A. At the time when Sy Bi Bo and Sy Bi Git got married I  
793 was in the school, but I believe I stopped going to school three months or so after that.

Q. On the days of the marriage ceremonies of Sy Bi Bo and Sy Bi Git, did you go to school, or to the marriage ceremonies?

Sr. ROSADO: Objected to as leading.

The COURT: Objection overruled.

Sr. ROSADO: Exception.

A. I was in the house of Sy Bi Git, and also in the house of Sy Bi Bo on those occasions. It is a custom in China, even if you are a boy, that you are invited to help at the time of marriage ceremonies of your relatives, and I was there helping on those occasions.

Mr. BISHOP: That is all.

SY SIANG, being called to the stand, testified as follows:

Examination by the COURT:

Q. Do you know what the meaning of an oath is?

A. Yes, I know.

Q. As a Chinaman do you have any special form of ceremony upon taking the oath?

A. To God., (witness raising his right hand).

Q. Do you know of any other form or ceremony which would be more solemn, besides raising your hand to God: that would be more solemn or binding upon you?

A. Stronger than that is the taking of the oath to the Government and to the Emperor, and to Justice.

794 Q. Is that the strongest oath you know of: to the Government, to the Emperor, and to Justice?

A. There is nothing stronger than God (witness raising his right hand).

Q. Raise your right hand.

Witness raises his right hand.

Q. You do solemnly swear that the testimony you will give in the case now in hearing shall be the truth, and nothing but the truth, in the name of God, and of the Government of China, and of the Emperor of China, and of the laws of Justice?

A. All the truth.

Sr. SUMULONG: I move that this Chinaman shall be sworn by lighting two candles, and cutting off the head of a white rooster.

The COURT: Motion denied.

Sr. SUMULONG: Exception.

Direct examination by Mr. BISHOP:

Q. What is your name?

A. Sy Siang.

Q. Where do you live?

A. At No. 41 Calle Santo Cristo.

Q. What is your occupation?

A. Merchant.

Q. How old are you?

A. Sixty years of age.

Q. Where were you born?

A. In Am Thau.

Q. Am Thau is in what pueblo.

A. The pueblo is in Amoy, Amoy is the headquarters of Am Thau.

795 Am Thau is something like a barrio. Hoc Yien is the province, something like the Philippine Islands.

Q. How old were you when you first came to the Philippine Islands?

A. The first time I came to the Philippine Islands I was twenty one years of age.

Q. Have you ever returned to China since then?

A. Yes, sir, I went back to China when I was twenty-five years of age.

Q. How long did you remain in China that time?

A. I went to China, got married, and had a child, and then I was thirty years of age when I came out again to the Philippine Islands.

Q. Have you returned to China since that time?

A. I never went back to China since then up to the present time.

Q. Where have you been living all this time that you have been in the Philippine Islands?

A. The first time I came to the Philippine Islands, when I was twenty-one years of age I stopped in the store of my parents, near the bridge of Binondo, opposite the house of Sy Ty.

Q. And where have you lived since then?

A. When that store was closed I went to the province of Bulacan.

Q. How long did you stay there?

A. About eight years.

Q. Then where did you go?

A. I returned to Manila.

Q. Where have you lived ever since then?

796 A. At 41 Calle Santo Cristo.

Q. Did you know a man in Manila by the name of Don Vicente Romero Sy Quia?

A. I did.

Q. When did you first know him?

A. In China.

Q. In what place in China?

A. Am Thau.

Q. How old were you when you first know Don Vicente Romero Sy Quia in Am Thau?

A. I was about eighteen or nineteen years of age when I saw him in Am Thau, China, when I went there to visit my relatives, that is the first time I knew him.

Q. What relation are you, if any, to Don Vicente Romero Sy Quia?

A. We are in the same old house, and Sy Quia's house is on the other side.

Q. State if you know in whose house Sy Quia lived while in Am Thau?

A. His own house, a large house, the largest of all.

Q. Did Sy Quia have any brothers and sisters?

A. Yes, sir.

Q. How many brothers did he have?

A. First Sy Ty, then Sy Tiap, then a brother whose name I don't know, who is dead, and then Sy Hien.

Q. Did Sy Quia have any sisters?

A. Yes, sir.

Q. What was the name of the sister?

A. Sy Chua Niu.

Q. Where is the brother of Sy Ty now?

797 A. He is dead.

Q. Where is the sister now?

A. In China.

Q. Is she living or dead?

A. She is dead.

Q. Where is the brother of Sy Hien?

A. Here in Manila.

Q. Do you know whether Sy Hien has been a witness in this case?

A. Sy Hien is the brother of Sy Quia, but whether he testified here, or was called here, I do not know.

Q. Where does Sy Hien live?

A. At No. 41 Calle Santo Cristo.

Q. In the same house with yourself?

A. Yes, sir.



Q. Did Sy Quia, Sy Ty, Sy Tiap and Sy Hien have any other names?

A. Yes, sir; they were also called Sy Tiong Quia, Sy Tiong Ty, Sy Tiong Tiap and Sy Tiong Hien: that is the family name which indicates that they are brothers, by taking the word Tiong together with the word Sy.

Q. How long did you know Don Vicente Romero Sy Quia in China?

A. The first time I knew him was when I went to pay a visit to my parents, I was a boy eighteen or nineteen years of age when I knew him the first time.

Q. About how long did Sy Quia remain in Am Thau that time?

A. He came back to China on that occasion to arrange for the burial of his father and mother, and to settle everything.

798 I believe he stayed one year, or a little over one year, in China on that occasion.

Q. Where is Don Vicente Romero Sy Quia now?

A. He is dead.

Q. Where did he die?

A. Here in Manila.

Q. When did he die?

A. About fourteen years ago.

Q. Where is he buried?

A. In Pambundoc, opposite the grave of Sy Ty.

Q. What is that cemetery called?

A. In Chinese it is called Quong Hui Su, which means first-class grave.

Q. What is it called in Spanish?

A. I do not know what it is in Spanish.

Q. Was Sy Quia married or single?

A. Married.

Q. What was the name of his wife?

A. Which wife do you mean; the wife here, or the wife in China?

Q. Both wives.

A. The wife here was called Ba Lang, the wife in China was called Yap Puan Niu.

Q. Where is Yap Puan Niu?

A. She is dead.

Q. Where did she die?

A. At Am Thau.

Q. When did she die?

A. I believe fourteen or fifteen years ago.

Q. Who died first, Sy Quia or Yap Puan Niu?

799 A. Yap Puan Niu died first.

Q. How long did Yap Puan Niu die before Sy Quia?

A. There was about two years difference.

Q. Do you mean that Yap Puan Niu died about two years before Sy Quia?

A. Yes, sir.

Q. Did Vicente Romero Sy Quia have any children with Yap Puan Niu?

A. Yes, sir.

A. How Many?

A. Do you mean in China?

Q. I mean how many children did Vicente Romero Sy Quia have with his wife Yap Puan Niu?

A. Two.

Q. Boys or girls?

A. Boys.

Q. What were their names?

A. Sy Bi Bo was the first one, and the second one was Sy Bi Git.

Q. When did you first know these two boys?

A. They were in the same school with me.

Q. In what town?

A. Am Thau.

Q. In what house did Yap Puan Niu and Sy Bi Bo and Sy Bi Git live?

A. In the big house of Sy Quii.

Q. Who do you mean by Sy Quii.

A. Sy Quii and Sy Tiong Quii are the same.

Q. What identity, if any, is there between him and Vicente Romero Sy Quia?

800 Sr. SUMULONG: Objected to on the ground that the question ought to be as to the difference between the three, Sy Quii Sy Tiong Quii and Vicente Romero Sy Quia?

Mr. BISHOP: I will change the question.

Q. What relation was Sy Quii and Sy Tiong Quii to the Vicente Romero Sy Quia whom you say died in Manila?

A. They are one and the same person.

Q. How old was Sy Bi Bo and Sy Bi Git in comparison with your age?

A. I am older than they.

Q. How much older?

A. I believe I am one year older than Sy Bi Bo and two years older than Sy Bi Git.

Q. How long did you go to school with Sy Bi Bo and Sy Bi Git?

A. Sy Bi Bo was with me in school for a long time, and Sy Bi Git only for a few years.

Q. State, if you know, who else lived in the house of Sy Quia in Am Thau?

A. The family of Sy Ty and the family of Que Bieng, not brothers, only cousins.

Q. Do you know where Sy Hien lived while in China?

A. In the same house.

Q. Where is Sy Bi Bo now?

A. He is dead.

Q. Where did he die?

A. At Am Thau.

Q. When did he die?

A. Who do you mean, Sy Bi Bo or Sy Bi Git?

A. I mean Sy Bi Bo?

801

A. I believe he is dead more than twenty years.

Q. Was he married or single at the time of his death?

A. He was married.

Q. What was the name of his wife?

A. Ho Gim Niu.

Q. Where is Ho Gim Niu now?

A. She is dead.

Q. Where did she die?

A. At Am Thau.

Q. When did she die?

A. Over fourteen years ago.

Q. Did Sy Bi Bo and Ho Gim Niu have any children?

A. Yes, sir.

Q. How many?

A. The first one was a boy who died, and then Sy Bi Bo took this one (indicating the plaintiff Sy Yoc Chay) for the mother to suckle.

Q. Did he have any other children besides the boy and Sy Yoc Chay?

A. One girl.

Q. What was her name?

A. Sy Jui Niu.

Q. Where is Sy Jui Niu now?

A. In China.

Q. Do you know whether she is living or dead?

A. According to some information I heard, she is dead.

Q. Do you know whether she was married or single?

A. She was married.

Q. Do you know whether she had any children?

A. From what I heard she had a boy.

802

Sr. SUMULONG: I ask that this last answer be stricken out as hearsay.

The COURT: Objection overruled, it merely shows the condition of the witness, that what he knows is by hearsay, and it can have no weight.

Sr. SUMULONG: Exception.

Q. Where did you first see Sy Yoc Chay?

A. Where do you mean, here, or in China?

A. In China.

A. I saw his father having him in his arms, and he stated to me that he had a boy who died, and that he had taken this one and adopted him as his son.

Q. How long did you know this boy, Sy Yoc Chay, in China?

A. Up to the present time.

Q. How long did you know him while you both lived in China?

A. One year, or more, that is less than one year, or may be more than one year.

Q. When did you first know Sy Yoc Chay in Manila?

A. Do you mean how old he was when I saw him in Manila?

Q. Yes, that will do.

A. I saw him here in the Philippine Islands about fourteen years ago.

Q. How old was Sy Yoc Chay when you first knew him in Manila?

A. He must have been about twenty years, or older, may be twenty-one.

Q. Where did Sy Bi Bo and his wife, and Sy Yoc Chay and Sy Jiu Niu live in China?

A. They lived in the same big house, Ho Gim Niu, her husband and these two.

803 Q. What big house?

A. Sy Ty's house.

Q. Who else lived in that house?

A. You mean to say now?

Q. I mean who lived in the big house at the same time that Sy Bi Bo and his wife and children lived there?

A. The family of Sy Ty and the family of Que Bieng, and the family of Sy Quui also. They all lived in one house.

Q. Where did Yap Puan Niu live at that time?

A. In the house of Sy Quui.

Q. Was that the same house you have just referred to?

Sr. SUMULONG: Objected to as leading.

The COURT: Objection overruled.

Sr. SUMULONG: Exception.

A. What house do you mean?

The COURT: The house you referred to as that of Sy Ty.

A. Yes, sir.

Q. How do you know that Sy Bi Bo and Ho Gim Niu were married?

A. When I came out the first time he was not married, but when I returned to China, he was married.

Q. Where is Sy Bi Git now?

A. He is dead.

Q. Where did he die?

A. At Am Thau.

Q. When did he die?

A. I believe that Sy Bi Git died more than twenty years ago, from this time.

Q. During his lifetime, was he married or single?

A. Married.

804 Q. Whom did he marry?

A. Yap Su Niu.

Q. Where is Yap Su Niu now?

A. Dead.

Q. Where did she die?

A. At Am Thau.

Q. When did she die?

A. I believe fifteen or sixteen years ago.

Q. Did Sy Bi Git and Yap Su Niu have any children?

A. Yes, sir.

Q. How many?

A. Two, a boy and a girl.

Q. What is the name of the boy?

A. Sy Yoc Leng.

Q. Where is Sy Yoc Leng now?

A. Here in Manila.

Q. Is he in the Court Room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the plaintiff Sy Yoc Leng).

Q. What is the name of the daughter of Sy Bi Git and Yap Su Niu?

A. Sy Chua Niu, but I have never seen her because I was here in the Philippine Islands.

Q. Where is Sy Chua Niu now?

A. In China.

Q. When and where did you first see Sy Yoc Leng?

A. At Am Thau.

805 Q. How old was he when you first saw him?

A. Newly born.

Q. How long did you know him in China?

A. I knew him four years in Am Thau and then I came here.

Q. When did you first know Sy Yoc Leng in Manila?

A. A long time ago.

Q. About how old was Sy Yoc Leng when he came to the Philippine Islands.

A. About twelve or thirteen years of age when he came to the Philippine Islands.

Q. Do you know who came to the Philippine Islands with him, in his company?

A. Yap Puan Niu, the wife of Sy Quia, came with him.

Q. What relation, if any, is that Sy Quia to the Don Vicente Romero Sy Quia to whom you have referred?

A. Sy Quia, Sy Tiong Quia and Sy Quii are one and the same person.

Q. State if you know in what house in China Sy Quia and Sy Bi Git and his wife and children lived?

A. At Am Thau.

Q. In what house at Am Thau?

A. In the house of Sy Quia.

Q. Did you ever see Yap Puan Niu in Manila?

A. I saw her.

Q. When did you see her in Manila?

A. The first time I saw her she was in the house of Sy Ty.

Q. How many times did he come to Manila?

A. Twice.

806 Q. How long did she stay each time?

A. The first time she came she stayed here about five months, and the second time about three or four months, and then went back to China.

Q. Where did she live while in Manila each time?

A. I saw her in the house of Sy Ty.

Q. What relation, if any, was this Sy Ty to the Don Vicente Romero Sy Quia to whom you have referred?

A. They were brothers.

Q. Where did you live in reference to this house of Sy Ty at the time Yap Puan Niu was there?

A. On the other side of the house of Sy Ty, on the same line.

Q. How far was your house from the house of Sy Ty?

A. I lived on one side of the bridge and he lived on the other.

Q. On what street was your house?

A. That is on the bridge called Binondo, I lived at one end of the bridge and Sy Ty at the other end.

Q. While Yap Puan Niu was living in the house of Sy Ty, did you see her husband Don Vicente Romero Sy Quia?

A. Yes, sir, I saw him.

Q. Where did you see him?

A. The first time I saw Yap Puan Niu was when I visited her in the house of Sy Ty, and I saw Sy Quia there.

Q. Why did you visit Yap Puan Niu while she was in Manila?

A. Because Yap Puan Niu is my cousin, and my mother sent some message through her, and I went to talk to her.

Q. Do you know the defendant Gregorio Sy Quia?

807 A. I know him but not very well, he stayed at Ilocos.

Q. Do you know Pedro Sy Quia?

A. Yes, sir, I know him.

Q. Do you know Juan Sy Quia?

A. Yes, sir, I know him also.

Q. Who was the father of these three men?

A. Sy Quia, the husband of Ba Lang.

Q. Who was Ba Lang?

A. Ba Lang is the wife of Sy Quia, and the mother of Gregorio, Pedro and Juan Sy Quia.

Q. Was she a Chinese or Filipino woman?

A. She was a Filipina.

Q. Were there any girls in the Philippines family?

A. Yes, sir.

Q. How many?

A. Two.

Q. What were their names?

A. Ayang was the oldest and the second was named Angui.

Q. Of these Filipino children you have mentioned just now, who was the oldest?

A. Ayang was the oldest.

Q. State, if you know, who was older: Sy Bi Bo or the oldest of the Filipino children, Ayang?

A. Sy Bi Bo was the elder of the two.

Q. How much older was Si Bi Bo than Ayang?

A. Eight years older than I am.

Mr. BISHOP: That is all.

808 Cross-examination by Sr. SUMULONG:

Q. Who got married first, Sy Bi Bo, or Sy Bi Git?

A. Sy Bi Bo got married first.

Q. How many years before Sy Bi Git got married had Sy Bi Bo been married?

A. Si Bi Bo was married two or three years before Sy Bi Git.

Q. How many years after Sy Bi Bo got married was Sy Yoc Chay adopted?

A. He was married about two or three years, and then he had a boy who died after he was a few months old, and then Sy Bi Bo took Sy Yoc Chay and adopted him as his son.

Q. How many years was Sy Bi Git married when Sy Yoc Leng was born?

A. Sy Yoc Leng was born two years after Sy Bi Git got married.

Q. How old was Sy Yoc Chay, more or less when he was adopted by Sy Bi Bo?

A. He was a small, little boy, in the arms of his father, he must have been but a few months old when he was adopted.

Q. What is the age of Sy Yoc Leng now?

A. He is thirty-four years of age. I have a daughter of the same age.

Q. How old is Sy Yoc Chay at the present time?

A. I suppose he is more than a year older than Sy Yoc Leng.

Q. Who were the parents of Sy Yoc Chay before he was adopted by Sy Bi Bo?

A. It is hard to say who is his father, when I saw him he was in the arms of Si Bi Bo, who told me that he had a boy who died, and that he had now adopted this child Sy Yoc Leng as his son.

809 Q. Do you know whether or not the parents of Sy Yoc Chay were relatives of Sy Bi Bo?

A. I do not understand.

Q. The question is whether the father and mother of Sy Yoc Chay were relatives of Sy Bi Bo?

A. Sy Bi Bo is the father.

Q. I am talking about the parents of whom he was born: whether they were relatives of Sy Bi Bo prior to the time Sy Yoc Chay was adopted by Sy Bi Bo?

A. It is hard to know who his real parents were. He was a child at the breast, and I only knew Sy Yoc Chay, I did not know his real parents. How could I know, when, as I have stated before, Sy Bi Bo had him in his arms when I went to China, and stated that he had a boy a few months old who died, and that he had taken Sy Yoc Chay and adopted him as his son.

Q. Is it not true that in China it is the custom, as a general rule, when any one adopts a boy, generally the boy who is adopted is a relative of the party adopting him?

A. It can be so too that he can also be adopted by others.

Q. How is a boy adopted who is not any relative of the party who adopts him?



A. I do not know the way they adopt, and in regard to Sy Yoc Chay, I did not know his father and mother, and do not know whether they are relatives, cousins, or what, of Sy Bi Bo, I was only informed by Sy Bi Bo that he adopted this boy.

Q. Are not these adopted sons in China also acquired by buying them, by the person who adopts them?

810 A. Yes, sir, you can buy according to the Emperor's rule, and adopt the child thus bought and make him your own.

Q. Was Sy Yoc Chay a child in the condition thus stated by you: was he adopted in that way?

A. I do not know whether he was bought or not. Sy Bi Bo had him in his arms and informed me that he had a boy a few months old who died, and that he had adopted Sy Yoc Chay, but whether he bought him or paid for him, I do not know, as I was here in the Philippine Islands.

Q. You have stated that Yap Puan Niu died in Am Thau were you in Am Thau when she died?

A. No, sir, I was here.

Q. Have you seen the tombstone of Yap Puan Niu on any of these occasions that you went to China?

A. No, sir, when she died I was here, and did not go back to China since that, how then could I have seen her tombstone.

Q. You have stated that in the house of Sy Quia at Am Thau there lived there the families of his cousins, is that so?

A. Yes, sir, and also his brothers.

Q. Who were the cousins of Sy Quia who had their families in the same house at Am Thau?

A. Sy Que Bieng, that is a cousin.

Q. Who else?

A. Sy Ty, Sy Hien, and Sy Quia, all were living in the one house.

Q. Besides those mentioned by you were there any other families living there, when you were in China?

A. Nobody else.

811 Q. You have stated that you never saw Sy Chua Niu, how do you know then that she was the daughter of Sy Bi Git?

A. By hearsay, Sy Chua Niu is the sister of Sy Yoc Leng.

Q. What relationship is there between you, Sy Yoc Chay and Sy Yoc Leng?

A. They are cousins of mine.

Q. And what relationship is there between you and Sy Quii?

A. He is my cousin, full cousin.

Q. Were you a son of a brother or sister of Sy Quii, or not?

A. My father's surname is Sy.

The COURT: Was your father a brother of the father of Sy Quii?

A. Yes, sir, that is it, my father and the father of Sy Quii were brothers.

Q. What is the name of your father?

A. Sy Tuat.

Q. What is the name of your grandfather?

A. Sy Piat.

Q. What is the name of the father of Sy Quii?

A. Sy Tiong Yian.

Q. What is the name of the grandfather of Sy Quii, or the father of Sy Tiong Yian?

A. That is too hard for me, it is too long time ago, I cannot remember, that is about a thousand years you are asking me about, I was not born yet, three times eighty.

Q. You have stated you know Sy Quii in China when you were about seventeen or eighteen years of age: were you single or married at that time?

A. I was not married yet, I was still at school.

812 Q. The question is whether or not when you were seventeen or eighteen years of age, and you knew Sy Quii, whether Sy Quii was married or not?

A. He was married.

Q. For how many years had you known Sy Quii in China before you came to the Philippine Islands?

A. I saw him in Am Thau, China, a little over two years before I came to the Philippine Islands.

Q. What was then the age of Sy Quii the first time you knew him, when you were about seventeen or eighteen years of age?

A. I believe he was more than forty years old.

Q. What was your age the first time you came to the Philippine Islands.

A. Twenty-one years of age.

A. I believe you have stated that you had known Sy Quii two years before your coming to the Philippine Islands: do you mean to say by that that you did not know Sy Quii before that time?

A. I did not know him before that, he did not go to China and how could I have seen him?

Sr. SUMULONG: That is all.

Cross-examination by Sr. LEGASPI:

Q. How many years are you residing in the Philippine Islands?

A. I came out here when I was twenty-one years of age, and now I am sixty years of age, that is the time I have been here.

Q. So you are thirty-nine years in the Philippine Islands?

A. From the first time I came to the Philippine Islands up to this time is thirty-nine years, but I went back to China.

813 Q. Before your departure from China to the Philippine Islands had you seen Sy Quia in China?

A. I saw him when I was about seventeen or eighteen years of age.

Q. From that age of seventeen or eighteen years up to your twenty-first year, how many times did you see Sy Quia in China?

A. Only on that occasion.

Q. Where did you see him on that occasion, in what part of China?

A. He went to visit my parents.

Q. Did you ever visit Sy Quia in China?

A. We are cousins, and if there was any fiesta we would go to

his house, and if there was any fiesta in our house, he would come to us.

Q. Do you remember in what year that fiesta you refer to, took place?

A. This is the way of fiestas: for instance, if my parents die today, then a year from today there is a big fiesta, and all the relatives are invited, and there is eating and drinking, and that is what I call a fiesta.

Q. And it was on that occasion that you saw Sy Quia in your house?

A. In my house I saw him drinking, and he was a little drunk: that is true, that is no lie, I was a big boy at that time.

Q. Do you remember whether it was one month, or two, or three, or one year, or two or three, before your coming to the Philippine Islands, that that fiesta took place?

A. I cannot remember, there are so many relatives in the  
814 family that die, brothers and sisters, cousins, father and mother, always celebrated by a fiesta, it is hard to remember.

Q. I remember you having stated that you went to school together with the brothers Sy Bi Bo and Sy Bi Git, is that so?

A. Yes sir.

Q. What was your age at that time?

A. I was a small boy, I was going to school.

Q. Was Sy Bi Bo and Sy Bi Git also children like you?

A. Yes, sir.

Q. You stated not long ago that you were one or two years older than Sy Bi Bo and Sy Bi Git?

A. Yes, sir.

Q. Do you mean to say by that that if Sy Bi Git had lived he would be over fifty years of age?

A. More.

Q. Can you explain what is the meaning of that word "more"?

A. Sy Bi Git must be more than fifty-eight years of age, and Sy Bi Bo more than fifty-nine years of age.

Q. Do you know Sy Qui Quion?

A. Yes, sir, Si Bi Bo, Sy Qui Quion and myself were going to school together.

Q. What was the age of Sy Qui Quion when he was going to school together with you?

A. He was a small boy, he must have been about ten or eleven years of age.

Q. Do you mean to say by that that he is more or less the same age as you?

A. No, sir, I am older than him, many years older: when we were going to school together he was about ten or eleven  
815 years of age, and I was about nineteen or twenty years of age, and then, when I was about twenty-one years old, I left school and come here to the Philippine Islands.

Q. Where were you when Sy Bi Bo and Sy Bi Git died?

A. I was here in Manila.

Q. Where were you when Sy Bi Bo and Sy Bi Git got married?

A. When Sy Bi Bo got married, I was here, but the year Sy Bi Git got married I went back to China, and I helped at his wedding.

Q. Where were you when Yap Puan Niu died?

A. I was here in Manila, she died at An Thau, and I did not go there.

Q. Where were you when Sy Yoc Leng was born?

A. I was in China, a few months after my daughter was born, Sy Yoc Leng was born.

Q. Where were you when Sy Yoc Chay was adopted?

A. That year I went back to China, and upon meeting Sy Bi Bo who had a baby in his arms, he told me that he had a boy a few months old, who died, and that he had this Sy Yoc Chay now, who was in his arms, and had adopted him as his own son.

Q. Since when did you know Don Vicente Romero Sy Quia in the Philippine Islands?

A. I was twenty-one years of age when I came to the Philippine Islands, and I knew him here.

Q. And how long a time did you know Petronila Encarnación?

A. The same time.

Q. When you knew the family of Don Vicente Romero Sy Quia did you know all his family?

816 A. When I arrived here in the Philippine Islands I was twenty-one years of age, and I saw Sy Quia in a carriage, and he had already children, girls and boys, from twelve to fourteen years of age.

Sr. LEGASPI: That is all.

Redirect examination by Mr. BISHOP:

Q. You say you are a cousin of Sy Yoc Chay and Sy Yoc Leng: of what degree are you a cousin of theirs?

A. In China we are only cousins, that is all.

Mr. BISHOP: That is all.

Mr. BISHOP: We have a package of depositions which were taken in Amoy, China, and we now ask that the Clerk of the Court be directed to open this package and permit the attorneys in this case to examine them, and take notes from them, under his supervision. We and the other side also have practically a copy, but the last day or two over there we were greatly rushed, so that we did not have the copies completed.

The COURT: The box may be opened, and under the supervision of the Clerk of the Court may be examined by counsel.

The hearing was then suspended until the 21st day of January, 1907, at 8 a. m., by request of counsel on both sides.

817

JANUARY 21st, 1907.

Pursuant to adjournment the case was called for hearing this a. m., with the same appearances.

Mr. BISHOP: If your Honor please, at the close of the last session your Honor intimated very strongly that you did not care for us

to occupy your time further by calling more witnesses who would testify along the same general line as before. We had other testimony and have along that line, and we appreciate the fact that this case is taking a great deal of time and cannot be avoided; but we also appreciate the fact that in case it should be appealed that it might be embarrassing to us if we did not offer all the testimony we had.

The COURT: Would it be any worse, if no defense was made?

Mr. BISHOP: No, not on that line.

The COURT: Then it is unnecessary at this time, but if there should be any question at the termination of the defense as to preponderance of evidence, I should allow you then to offer further evidence, having suggested that there was sufficient at this time. You could go on for an indefinite period and offer the same thing but it would not strengthen your case now.

Mr. BISHOP: We would not do that. Our theory of offering testimony was that we should keep ourselves within six witnesses on each of the points of evidence, at least six familiar with Yap Puan Niu and six familiar with Sy Quia, and in taking our depositions we were very careful to divide the witnesses.

818 The COURT: I have always been limited to three witnesses to present on any one point. It is not a rule, but is a practice.

Mr. BISHOP: With that in view I will not offer any more evidence along that line, but will necessarily call two of our four clients, and there may be repetition more or less along that line, but of course we feel that we must call our clients.

The COURT: Proceed.

SY YOC CHAY, called in his own behalf, being duly sworn, testified as follows:

Examination by the COURT:

Q. Do you know if there is any other way of taking an oath than this you have just stated, which will bind you more to tell the truth?

A. Yes, sir.

Q. What other form is there?

A. The Chinese have no other way of taking an oath.

Examination by Mr. SUMULONG:

Q. When there is litigation between two Chinamen, and one of them wants to enforce the other one to tell the truth, is it not true that he will state "I will cut the head of a chicken for you, or break a bowl or jar to tell the truth"?

A. That is also true, and I can take the oath even of cutting the head of a rooster, I am willing to cut the head of a chicken.

Q. Do you believe in a God, or are you an atheist?

A. God is the same almost all over the world, he is the same God.

819 Q. Do you believe in any other private God?

A. A private God could not count, but there are many.

Q. Who is the God whom you worship?

A. I believe in the God in Heaven.

Q. You stated just now that you knew the Chinese oath of cutting the head of a rooster, have you ever seen that oath administered?

A. In the conduct of the affairs of Government in China.

Q. On what occasion is the head of a rooster cut off in order to oblige a man to tell the truth?

A. Among the authorities they do not administer such an oath, private persons administer this oath among themselves

Sr. SUMULONG: I will now make the same motion that I made in regard to the other witnesses as to the method of taking the oath.

The COURT: I am of the opinion from the statement of the witness, that no oath would be more binding upon him than that which has just been administered.

Sr. SUMULONG: Exception.

Direct examination by Mr. O'BRIEN:

Q. What is your name?

A. Sy Yoc Chay.

Q. How old are you?

A. Thirty-five years of age.

Q. Where do you live?

A. At No. 41 Calle Santo Cristo.

820 Q. Where were you born?

A. I am a native of Am Thau?

Q. What is your occupation?

A. Working in an alcohol distillery.

Q. What is your occupation at the present time?

A. I am working with Sy Hien, and sometimes I go to the provinces.

Q. Are you one of the plaintiffs in this action against Petronila Encarnacion and others?

A. My cousin is Sy Yoc Leng.

Q. But are you of the parties to this suit?

A. Yes, sir.

Q. Where did you live in Amoy?

A. I lived at Am Thau, province of Amoy.

Q. Who lived with you in Am Thau?

A. My uncle is Sy Ty and my grandfather is Sy Quui.

Q. Who else lived in the same house in Am Thau besides yourself?

A. All my relatives.

Q. Who are your relatives?

A. Sy Que Bieng was my relative.

Q. Name them all?

A. Sy Quui, Sy Ty, Sy Tiap and Sy Hien, Sy Tiap died when a small boy.

Q. Where did your father and mother live?

A. He was the son of Sy Quui.

Q. But where did your father and mother live?

A. In China.

- Q. But where in China?
- 821 A. They lived in the house of my grandfather.
- Q. Where did your cousin, Sy Yoc Leng, live?
- A. In the same house.
- Q. Where did the parents of Sy Yoc Leng live?
- A. As the brother of my father he lived in the same house.
- Q. What was your father's name?
- A. Sy Bi Bo.
- Q. What was your mother's name?
- A. Ho Gim Niu.
- Q. Is your mother living or dead?
- A. My father died four years ago, and my mother is dead about eleven years ago.
- Q. When did your father die?
- Sr. SUMULONG: The question has already been answered, and I object to it on that ground.
- Mr. O'BRIEN: It was not responsive.
- The COURT: Objection overruled.
- Sr. SUMULONG: Exception.
- A. When my father died I was eleven years of age, he died twenty-four years ago.
- Q. Did you have any brothers or sisters?
- A. One sister.
- Q. What was her name?
- A. Sy Jui Niu.
- Q. Is she living or dead?
- A. She died in July.
- Q. Previous to her death was she married or single?
- A. Married.
- 822 Q. When she died did she have any children?
- A. Yes, sir.
- Q. How many?
- A. One son.
- Q. What was his name?
- A. Siau Hau.
- Q. How old is Siau Hau?
- A. Six years of age.
- Q. Who was the father of Sy Bi Bo?
- A. I don't know because I am only a little over thirty years of age, and I do not know.
- Q. Who was the father of your father?
- Sr. SUMULONG: Objected to, on the ground that the witness has already stated that he did not know.
- Mr. O'BRIEN: I will withdraw the last question.
- Q. What is the name of your grandfather?
- Sr. SUMULONG: Objected to for the same reason.
- The COURT: It may be answered, although in a certain way repetition, but at the same time it may be for the purpose of correcting something the witness misunderstood.
- Sr. SUMULONG: Exception.



A. Sy Quil.

Q. Did your father have any brothers or sisters?

A. He had a brother.

Q. What was his name?

A. Sy Bi Git.

Q. Was Bi Git married or single?

A. Married.

Q. To whom was he married?

823 A. To Yap Su Niu.

Q. Did Sy Bi Git and Yap Su Niu have any children?

A. Yes, sir.

Q. How many?

A. One son by the name of Sy Yoc Leng and a daughter by the name of Sy Chua Niu.

Q. Where is Sy Yoc Leng now?

A. He is here in Manila.

Q. Is he outside here in the other room?

A. Yes, sir.

Q. Is he one of the parties to this suit?

A. Sy Yoc Leng is one of the plaintiffs, he is a relative of mine, just like a brother.

Q. Where is Sy Chua Niu?

A. Dead.

Q. How long has she been dead?

A. Less than twenty years, I cannot fix the time.

Q. Where is the mother of Sy Yoc Leng?

A. She is also dead.

Q. When did she die?

A. My uncle died when I was five or six years old, and then I went to my aunts, my uncle died when I was four or five years old.

Mr. BISHOP: I will ask permission of the Court to procure a new interpreter, as it is very evident that this interpreter does not give either the questions or the answers in the way they should be, and I base this on my professional statement, and I am confident that this witness does not understand the questions that have been put to him.

824 THE COURT: You may do so.

Intermission of twenty minutes, to enable a new interpreter to be secured, when Mr. Bishop presented BENITO P. RIVERA, who being sworn in by the Court, the case — proceeded with.

Q. When did the mother of Sy Yoc Leng die?

A. First died my uncle, and then about four or five years after the mother of Sy Yoc Leng died.

Q. How old were you when Sy Bi Bo died?

A. I was eleven years old when my father died.

Q. Was Sy Bi Bo married or single during his lifetime?

A. If he were not married how could he have children?

Q. What was his wife's name?

A. Ho Gim Niu.

Q. Did Sy Bi Bo and Ho Gim Niu have any children?

A. I am the son.

Q. Did they have any others?

A. I am the only son, there was a small one who died.

Q. Did Sy Bi Bo have any brothers or sisters?

A. The brother of my father is the father of Sy Yoe Leng, and believe that my father had two sisters who died when they were small.

Q. What is the name of your father's brother, the father of Sy Yoe Leng?

A. Sy Bi Git.

Q. What was the name of the wife of Sy Bi Git?

Sr. SUMULONG: We object to all this, as most of these  
825 questions have already been answered by this witness.

The COURT: Yes, but these questions are put by a new interpreter, called for the reason stated by counsel, and they may be answered.

Mr. O'BRIEN: We are repeating the questions simply for the purpose of finding out whether this witness understood the questions which were interpreted to him by the previous interpreter.

A. Yap Su Niu.

Q. Is Yap Su Niu living or dead?

A. She is dead.

Q. Did Sy Bi Git and Yap Su Niu have any children besides Sy Yoe Leng?

A. Yes, sir; a girl by the name of Sy Chau Niu.

Q. Is she alive or dead?

A. She is still living.

Q. When we used the other interpreter you stated that Sy Chau Niu had died, some twenty years ago, is that what you meant?

Sr. SUMULONG: Objected to on the ground that the question is very leading.

The COURT: It is only for the purpose of clearing matters up, and necessarily must be leading, the witness may answer.

Sr. SUMULONG: Exception.

A. The one who died is my sister Sy Jui Niu.

Q. Where is the sister of Sy Yoe Leng now?

A. In China.

Q. Who is your grandmother?

A. Yap Puan Niu.

Q. Who is the husband of Yap Puan Niu?

826 A. My grandfather Sy Quui.

Q. Where is Yap Puan Niu now?

A. She is dead.

Q. How long has she been dead?

A. Fourteen or fifteen years approximately.

Q. Where is Sy Quui now?

A. My grandfather is dead also.

Q. Who died first, your grandfather or your grandmother?

A. I believe my grandmother died first, and about two years after that my grandfather died here in the Philippine Islands.

Q. Where were you when your grandmother died?

A. I was in China.

Q. Where were you when your grandfather died?

A. One year after my arrival here in the Philippine Islands he died.

Q. How old were you when you came to the Philippine Islands first?

A. Twenty-one years of age.

Q. How long after the death of your grandmother, Yap Puan Niu, was it until you came to the Philippine Islands?

A. Five or six months after, and then I came here.

Q. When you came to the Philippine Islands where did you live?

A. I lived in the house of the brother of my grandfather, Sy Ty.

Q. Who lived in that house at the time you came to Manila?

A. A short time after my arrival here Sy Ty died, and then Sy Hien was living there with the other relatives of the family.

827 Q. What was your occupation when you first arrived in Manila?

A. About fifteen days after my arrival here I was sent into a distillery belonging to Sy Ty.

Q. Have you ever returned to China since you came to the Philippine Islands?

A. Our grandmother, a Filipina by the name of Petronila Encarnación gave some money to me and Sy Yoc Leng to go to China, where I got married, and then returned here to the Philippine Islands.

Sr. SUMULONG: We ask that the answer of the witness be stricken from the record, as not responsive to the question.

Mr. O'BRIEN: We will consent that the last part be stricken out.

The COURT: That part may be stricken out where the witness states that he got married and returned to the Philippine Islands.

Q. Did you go to China?

A. Yes, sir.

Q. How long after you came to Manila was it that you returned to China?

A. After I had been here eleven years, then I returned to China.

Q. How long did you remain in China?

A. I went to get married, I stayed there a little over one year or so.

Q. How old were you when you first knew your grandfather, Sy Quia?

Sr. SUMULONG: Objected to, on the ground that the witness has stated before that he did not know his grandfather, because  
828 he was only a little over thirty years of age.

Mr. O'BRIEN: I withdraw the question.

Q. Through the other interpreter you stated that you did not know your grandfather because you were only thirty-five years of age, do you mean to say that you did not know him, or what did you mean by that answer: did you understand the question.

Sr. SUMULONG: Objected to on the ground that the question expects the witness to rectify a former answer.

The COURT: The question may be answered, as to whether the witness understood the question or not.

Mr. SUMULONG: Exception.

A. Before I did not understand the question through the other interpreter. What I meant to say was that I am now over thirty-five years of age, and about one year after my arrival in Manila my grandfather died.

Q. Where did you first know your grandfather, in China, or in Manila.

A. I was not born when Sy Quia left China, I believe it was over forty years ago. It was only upon my arrival here, that I knew him.

Q. When did you see him first?

A. In the house at Calle Jolo.

Q. Who was present when you first saw him?

A. I was in company with my cousin, Sy Yoc Leng, when I went there to see him.

Q. Did you have any conversation with him?

A. Yes, sir.

829 Q. State what conversation you had?

A. Upon my arrival here my grandfather asked me, "Hullo, you have come", and I said "Yes". Then he said: "How did your grandmother die", and I said that she had been sick, and there was no remedy, and there was nothing to do, and she died.

Q. How long after that was it until your grandfather died?

A. The supposition is this: suppose I arrive here in the Chinese month of December, then fifteen days after that I went to Bulacan, and then about one year later I saw my grandfather, and about that time he died.

Q. Where was he buried?

A. In the Chinese cemetery.

Q. How do you know that?

A. Because I went to the funeral, and assisted at it, and for that reason I know it.

Q. How many times have you seen the grave of your grandfather here?

A. When it is a fiesta here of "All Saints", which is a fiesta of natives as well as of Chinese, I go there to look at the grave.

Q. When was the last time you saw the grave?

A. The last time I saw the grave was last month.

Q. You have stated that you resided in the house at Am Thau, and that all your relatives lived there: who supported your relatives in that house?

A. As Sy Quia is my grandfather he supported the whole family.

Q. In what manner did he support them?

A. He sent money there to the family for their support.

Mr. O'BRIEN: That is all.

880 Cross-examination by Sr. SUMULONG:

Q. You stated that at the first time you went to see Sy Quia you went in company with Sy Yoc Leng?

A. Yes, sir.

Q. And nobody else went with you?

A. There were many Chinos there, but I did not know who they were.

Q. Y-u have stated that fifteen days after your arrival in Manila, you went to Bulacan: how long did you stay at Bulacan that time?

A. About one year, more or less.

Q. Did you remain there constantly?

A. After that time I came to Manila.

Q. But during this year that you remained at Bulacan, did you remain there constantly?

A. Yes, sir.

Q. To whom did that distillery belong where you were employed?

A. To the brother of my grandfather, Sy Ty.

Q. Do you know what are the names of the other brothers and sisters of Sy Ty?

A. The only one I do not know is Sy Tiap, all the rest I know.

Q. Did you know a brother of Sy Quia who died by shipwreck?

A. That was at Cagayan.

Q. Did you know him?

A. I was not born yet, and how could I have known him?

Q. Was Sy Tiap married or not?

A. I heard that he died about ten years ago, but I do not know whether he was married or not.

881 Q. You have stated that after living one year in Bulacan you came to Manila: can you tell me in whose house you lived in Manila, after you came back from Bulacan?

A. In the house of Sy Ty on Calle San Fernando, and then I went and paid a visit to my grandfather.

Q. During the eleven years you were living here in the Philippine Islands, did you live all the time in the house of Sy Ty, and afterwards go to China?

A. I lived one year in the provinces, and then I came back to Manila, and lived all the time in the house of Sy Ty.

Q. After you had been in Bulacan, and came to Manila, what occupation did you have here?

A. I was in the office of Sy Ty, as his help there, as a messenger.

Q. What salary did you have for these services you rendered Sy Ty?

A. I did not pay any attention to salary, as my grandfather sent money to Sy Ty which was used for my support.

Q. Then Sy Ty did not give you anything for the work you performed for him?

A. No, sir, Sy Ty did not give me anything.

Q. You have stated that you went to the funeral of Sy Quia, were you in the house of Sy Quia when he was placed inside the coffin and dressed up?

A. Yes, sir.

Q. Is it not true that it is the custom of the Chinese, that when a person dies, they make nine silk suits of different colors, and is it not also true that before placing these suits on the dead person they are worn first by the eldest son?

832. Mr. O'BRIEN: Objected to as incompetent, and not proper cross-examination.

The COURT: I cannot see what they are going to get out of it, but the question may be answered to test the understanding of the witness.

Mr. O'BRIEN: Exception.

A. Yes, sir, that is true, on the son or the wife.

Q. And were these suits put on in the house of Sy Quia before they were put on Sy Quia?

A. Here it is not done, that is only done in China.

Q. Do you mean to say by that that this ceremony was not performed when Sy Quia died here in Manila?

A. They did not comply with the Chinese custom.

Q. Is it not true that when a father dies these garments are placed upon the eldest son, and if he is no longer living, or absent, then they are placed on his eldest son, the eldest grandson of the deceased?

A. Yes, sir.

Q. You have stated that when you knew Sy Quia the first time it was after you had been one year in Bulacan province?

Mr. O'BRIEN: Objected to on the ground that the witness has not made such a statement.

The COURT: I have not heard such a statement from the witness.

Sr. SUMULONG: I withdraw the question.

Q. When you arrived here in Manila, was Sy Yoe Leng already here?

A. Sy Yoe Leng was already in Manila when I came here the first time.

Q. When you went in company with Sy Yoe Leng to see Sy Quia, that was the first time that you and Sy Yoe Leng saw Sy Quia, is that not so?

833. A. The first time I went in company with Sy Yoe Leng, but afterwards I used to go by myself, as he was my grandfather.

The COURT: The question is: when you went to see Sy Quia in company with Sy Yoe Leng, whether that was the first time you saw Sy Quia, and the first time that Sy Yoe Leng saw Sy Quia?

A. Yes, sir.

Q. How many years had Sy Yoe Leng been in Manila when you arrived here?

A. I do not remember very well how long.

Q. How many years after the departure of Sy Yoe Leng from Am. Thau, did you come to Manila?

A. I do not remember, sir, it is such a long time ago that I do not remember when it was, or how long ago it was.



Q. The first time that you went to see Sy Quia with Sy Yoc Leng, did he recognize you at once?

A. Why should he not know us, I believe Sy Yoc Leng had informed him already before I came here to the Philippine Islands, through letters, because Sy Quia used to send me money in China.

Q. Did he recognize at once upon seeing you, who you were?

A. Always.

Q. Did he call you by your name at that time?

A. Yes, sir.

Q. Did you ever know or learn that he was not your natural grandfather?

A. I was at my mother's breast, and why should I not know that his son was my father?

Q. Who were your natural father and mother, what are their names?

234 A. My mother is Ho Gim Niu, and my father Sy Bi Bo. From the time I was born I know that my parents are Sy Bi Bo and Ho Gim Niu.

Q. Were you born from Ho Gim Niu herself, or from another woman?

A. I don't know about the date I was born, but Ho Gim Niu recognized me as her son.

Q. Did Ho Gim Niu or Sy Bi Bo or some other relative or person at any time tell you who were the father and mother of whom you were born?

A. The only thing I know about it is that Sy Bi Bo told me he was my father, and he always called me his son.

Q. Are you the natural son of Ho Gim Niu and Sy Bi Bo, or an adopted son?

A. How can I know if I am his natural son. I recognized him as my parent and he recognized me as his son and heir, and for that reason I recognize them as my parents.

Q. Did Sy Bi Bo and Ho Gim Niu at any time tell you whether you were an adopted son, or whether you were the natural son?

A. I am a true son.

Q. Do you know if Sy Ty is the true brother of Sy Quia, born of the same father and mother?

A. Yes, sir, one father and one mother only.

Q. And are Sy Quia and Sy Hien brothers of one and the same father and mother?

A. Yes, sir, only one father and mother.

Q. Do you know what is the age of Sy Yoc Leng?

A. Do you mean at the present time?

235 Q. Yes.

A. He is more than one year younger than me.

Sr. SUMULONG: That is all.

Cross-examination by Sr. LEGASPI:

Q. What age did you have when you knew Sy Bi Bo?

A. I was small, I knew he was my father, but I did not know what was my age.



Q. Where were you raised?

A. I was raised in China and afterwards I came to the Philippine Islands.

Q. In what part of China?

A. I was born in Am Thau.

Q. To whom does the house belong where you were born?

A. To my grandfather.

Q. When you say your grandfather, do you refer to Sy Quia?

A. I refer to Sy Quii.

Q. How old were you when you left China?

A. Twenty-one years of age.

Q. How many years are you residing in the Philippine Islands now?

A. I am thirteen or fourteen years here now.

Q. Who brought you to the Philippine Islands when you left China?

A. My cousin, a passenger on the boat.

Q. Where did they take you upon landing here?

A. I was taken to the house of Sy Ty, the manager was Sy Hien.

836 Q. Did you find Sy Ty in his house upon your arrival?

A. I was told that he had died five months before, and that the manager of the concern was Sy Hien.

Q. How many days were you in Manila when you knew Sy Quia?

A. After my landing, within an hour or two after I knew him.

Q. Do you mean to say by that, that upon landing on shore you went directly to the house of Sy Quia?

A. I went first to the house of Sy Ty, and afterwards I went to the house of my grandfather, Sy Quii.

Q. Who took you to the house of Sy Quia?

A. My brother cousin, Sy Yoc Lang.

SR. LEGASPI: That is all.

The hearing was then adjourned until the following day at 8 a. m.

JANUARY 22ND, 1907.

Pursuant to adjournment the case was called, with the same appearances, with the exception of Sr. Sumulong.

SY YOC CHAY, still on the stand, testified in his own behalf as follows:

Cross-examination by Sr. ROSADO:

Q. How long did you reside in the Philippine Islands the first time before going back to China?

A. I came here to the Philippine Islands when I was twenty-one years of age, and when I was thirty-two years of age I went back to China, and remained there on-year.

SR. ROSADO: That is all.

837 SY YOC LENG, called in his own behalf, being duly sworn, testified as follows:

SR. ROSADO: I desire that this witness be sworn in accordance with the rules of his country.

Examination by the COURT:

Q. Do you know of any other form of oath which is more solemn or which will bind you to tell the truth more than the oath I have just administered to you?

A. No, sir.

Q. Have you ever in any judicial proceeding taken a different form of oath?

A. I have taken the oath but three times, twice in the Custom House and once here.

The COURT: Proceed with the examination of this witness.

SR. ROSADO: Exception.

Direct examination by Mr. BISHOP:

Q. What is your name?

A. Sy Yoc Leng.

Q. Where do you live?

A. At the present time at Calle Santo Cristo.

Q. What is your occupation?

A. I have no job now.

Q. How old are you?

A. Thirty-four years of age.

Q. Are you one of the plaintiffs in this action?

A. Yes, sir.

838 Q. Where were you born?

A. At Am Thau.

Q. In what house in Am Thau were you born?

A. In the house of Sy Quia.

Q. Where is Am Thau?

A. In the province of Amoy, China.

Q. How long did you live there?

A. For fourteen years, and I then came to the Philippine Islands.

Q. What other persons lived in the same house with you in Am Thau?

A. Yap Puan Niu, my father Sy Bi Git, and my mother Yap Su Niu, and my uncle Sy Bi Bo and my aunt Ho Gim Niu, and also the families of Sy Ty, Sy Hein and Sy Que Bieng.

Q. What is the name of your father?

A. Sy Bi Git.

Q. Where is your father now?

A. He is dead.

Q. When did he die?

A. About twenty-six years ago.

Q. Where was he buried?

A. In China, near the pueblo of Am Thau.

Q. What is the name of your mother?

A. Yap Su Niu.

Q. Where is your mother now?

A. She is dead.

Q. Where did she die?

Q. At Am Thau, in the house of Sy Quia.

Q. When did she die?

A. About twenty-two years ago.

839 Q. Did you have any brothers or sisters?

A. Yes, sir, a sister who is living, and I had a brother who died when small.

Q. Where is your sister now?

A. In China.

Q. What is her name?

A. Sy Chua Niu.

Q. Is she one of the plaintiffs in this suit?

A. Yes, sir.

Q. What was the name of your father's father, that is your grandfather?

A. In Manila he was called Vicente Romero Sy Quia, and in China he was called Sy Quian, and sometimes he was also called Sy Tiong Quian.

Q. Will you repeat the names by which your grandfather was known in China?

A. Sy Quian and Sy Tiong Quian.

Q. What signification has the name Tiong?

A. All the brothers of Sy Quia use this word Tiong, so as to be known by people that they are brothers.

Q. What was the name of your grandmother?

A. Yap Puan Niu.

Q. Was she known by any other name than Yap Puan Niu?

A. Yes, sir.

Q. What other name was she known by?

A. By the name of Chu Kun.

Q. What signification, if any, has that name Chu Kun?

840 A. The word Kun means that she was a very hard-working woman in the house, and therefore when she died they gave her that name of Chu Kun.

Q. Where did your grandfather and grandmother live?

A. In Am Thau, China.

Q. In what house?

A. In the house of Sy Quia, and also the families of Sy Ty and Sy Hien and others.

Q. What was the name of your grandfather's father.

A. Sy Tiong Yian.

Q. What was the name of your grandfather's mother?

A. Chan Bong Niu.

Q. Where did they live?

A. In the house of Sy Quia.

Q. In what village?

A. Am Thau.

Q. Who owned this house you referred to as the Sy Quia house?

A. Sy Tiong Yian built that house.

Q. Who owned the house when you lived there?

A. It was divided into four parts: one for Sy Quia, one for Sy Ty, one for Sy Hien, and one for Sy Que Bieng.

Q. Describe that house briefly.

Sr. OPISSO: Objected to as immaterial.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. It is a large house, with at least fifty rooms, it had four parlors, it was in the shape of a bodega, that is the way houses are built in China, but it is not a bodega, and it was built of stone.

841 Q. Did your father have any brothers?

A. Yes, sir.

Q. How many?

A. He had one brother.

Q. What was his name?

A. Sy Bi Bo.

Q. Did your father have any sisters?

A. Yes, sir, I heard that he had a sister who died when small.

Q. Where is Sy Bi Bo now?

A. He is dead.

Q. When did he die?

A. About twenty-four years ago.

Q. Where did he die?

A. In Am Thau.

Q. Was he married or single at the time he died?

A. He was married.

Q. When Sy Bi Bo and his wife were living where did they live?

A. Also in the house of Sy Quia.

Q. Where is Sy Bi Bo's wife now?

A. She is dead.

Q. Where did she die?

A. In Am Thau.

Q. When did she die?

A. Over fourteen years ago.

Q. Did Sy Bi Bo and his wife have any children?

A. Yes, sir.

Q. How many?

A. A son and a daughter.

42 Q. What is the name of the boy?

A. I do not know the name of his natural son, or how many months old he was when he died, but they then took another one and adopted him, and his name is Sy Yoc Chay.

Q. Where is Sy Yoc Chay now?

A. He is here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you please point him out.

A. There he is (indicating the plaintiff Sy Yoc Chay).

Q. Is he one of the parties to this suit?

A. Yes, sir.

Q. Where is the daughter of Sy Bi Bo and his wife?

A. Do you mean Sy Jui Niu?

Q. Yes.

A. She is dead.

Q. Where did she die?

A. In China.

Q. When did she die?

A. About five or six months ago.

Q. Was she married or single when she died?

A. She was married.

Q. Did she have any children?

A. Yes, sir, one son.

Q. How old is that child now?

A. He is five or six years old now.

Q. Where is he now?

A. China.

Q. Whereabouts in China?

843 A. In the pueblo of An Chan Foo.

Q. When did you first come to the Philippine Islands?

A. I was fourteen years old when I came here together with my grandmother.

Q. Were you accompanied by any body else besides your grandmother?

A. Also by the wife of Lim Pan Ling.

Q. What relation, if any, is that Lim Pan Ling to the Lim Pan Ling who testified as a witness in this case?

A. The mother of Lim Pan Ling was the sister of my grandfather.

Q. What relation is there between that Lim Pan Ling and the Lim Pan Ling who testified here a few days ago?

A. They are one and the same person.

Q. Where did you live when you first came to Manila?

A. In the house of Sy Ty, but the same day I arrived I was accompanied by Sy Hien, who brought me to visit my grandfather Sy Quia at Calle Jolo.

Q. Where is this house of Sy Ty?

A. On Calle San Fernando.

Q. Is it on any other street?

A. At the corner of Santo Cristo.

Q. You mean that it is on the corner of Calle San Fernando and Santo Cristo?

A. Yes, sir.

Q. Where did you first see your grandfather?

A. At Calle Jolo, when I was brought there by Sy Hien, and then my grandfather told Sy Hien to take me to Sy Ty, and put me at school.

844 Q. Where is your grandfather now?

A. He is dead.

Q. Where did he die?

A. Here in Manila.

Q. When did he die?

A. In 1894.

Q. How do you know that he died?

A. Because when he died I was in the house at Calle Jolo.

Q. Calle Jolo of this city?

A. Yes, sir.

Q. Where was he buried?

A. In La Loma.

Q. How do you know that?

A. Because I went to the funeral.

Q. How many times have you seen the grave of your grandfather since he was buried at La Loma?

A. Very many times, I could not count the number.

Q. What were the occasions of your seeing the grave?

A. In the fiesta of All Saints' Day, Catholic as well as Chinese, I go there.

Q. When were you there the last time?

A. Pretty nearly one month ago.

Q. Why did you go there then?

A. I went with Lim Pan Ling and Sy Yoc Chay and you (Mr. Bishop) to show where my grandfather was buried.

Q. Describe that grave and its surroundings briefly.

A. It is surrounded by an iron fence, and inside there is a monument with an angel, a tall thing like a tombstone, on which  
845 words were inscribed in Spanish characters.

Q. When were you at the grave the last time?

A. With Major Bishop, I was there to take a copy of the inscriptions on that tombstone, I was asked to do so by Mr. Bishop and I took a copy.

Q. Did you copy all the words that were written on the tombstone of your grandfather?

A. Yes, sir.

Q. Where is that copy now?

A. I have it.

Q. Will you please hand it to me?

A. Here it is. (Handing paper to counsel.)

Mr. Bishop: I will now ask the court reporter to identify the writing upon this side of the paper as Exhibit AB., and the writing upon the other side of the paper as Exhibit AC.

The reporter marks the paper accordingly.

Q. In whose handwriting is this paper, Exhibit AB.?

A. That is my handwriting.

Q. Is every word and every letter upon that tombstone of your grandfather copied on this paper, marked Exhibit AB.?

A. Yes, sir.

Q. What is this writing on the reverse side, marked Exhibit AC.?

A. That is Joaquin Martinez Sy Tiong Ty.

Q. Who wrote that.

A. I also wrote that.

Q. When did you write that?

A. On the same day that I went with you, Mr. Bishop.

Q. And where did you write it?

846 A. In the grave yard.

Q. Does this paper marked Exhibit AC. contain all the words in Spanish that are written upon that tombstone of Joaquin Martinez Sy Tiong Ty?

A. Yes, sir.

Q. Are there any Chinese characters written upon that tombstone?

Q. Yes, opposite.

Q. I will now hand you a paper marked Exhibit AC1. for identification, and will ask you to state what it is, if you know?

A. This is Chinese writing. Here is the name of Sy Ty and the name here is Sy Qui Ping (indicating).

Q. What relation, if any, was Joaquin Martinez Sy Tiong Ty whose grave you have referred to, to your grandfather Vicente Romero Sy Quia?

A. They are brothers.

Q. Do the Chinese characters written upon that paper marked Exhibit AC1., and on the reverse side of it, contain all the Chinese characters that are upon the tombstone of Joaquin Martinez Sy Tiong Ty?

A. Yes, sir.

Q. How do you know that Joaquin Martinez Sy Tiong Ty is buried there?

A. Because I went to the funeral of Sy Tiong Ty when he died.

Q. What other graves are there close to these two graves you have referred to?

A. The son of Sy Ty.

Mr. BISHOP: We now offer in evidence as part of the testimony of this witness Exhibits AB., AC., and AC1., and later on  
847 we will furnish a translation of the Chinese characters which appear on Exhibit AC1.

The COURT: There being no objection they may be received.

Mr. BISHOP: We will now ask to have Exhibits AB. and AC. read into the record in English for the purpose of preserving them, as they are now on rather flimsy paper, and written in pencil.

The COURT: I will translate for the record. On the left hand side of Exhibit AB. appears the follow-:

"A. Evaristo. D. Vicente Romero Sy Quia. Native of Amtao in the province of Emuy, Empire of China. Died on the 9th day of January, 1894," and in two places at the bottom are the words "Vicente."

On the right hand side of Exhibit AB., appears the following:

"Ricarda. Honored in love and affection by his disconsolate wife, sons, grandsons, brothers and nephews. Born in February, 1822."

On the reverse side of this paper, and marked Exhibit AC., is the following:

"D.O.M. D. Martinez Sy Tiong Tay. Naturalized Spaniard by the grace of his Majesty. Died on the 12th day of February, 1892, at



the age of 61 years. Remembrance of his wife, sons and grandsons." Under this the lines above are repeated except that the remembrance appears as of his brothers, nephews and other relatives."

Mr. BISHOP: Will you kindly look at Exhibit AB., and state upon which part of the tombstone are found the words under "Evaristo"?

848 A. On the front of the tombstone.

Q. And where are found the words written under the word "Ricarda"?

A. On the back of the tombstone.

Q. And where were found the words "Vicente" and "Vicente"?

A. On the two sides.

Q. And upon the tombstone of Joaquin Martinez Sy Tiong Ty, are the inscriptions all written on one side of the tombstone or on different sides?

A. All written in Spanish on the two sides of the tombstone.

Q. And where are the Chinese characters written that appear on Exhibit AC1?

A. In front of the tombstone.

Q. Is this last letter of the first word "Ricarda," an "a" or an "o"?

A. It is an "O," Ricardo.

Q. What relation, if any, is the Don Vicente Romero Sy Quia who is buried in that grave you have referred to, to the Sy Quia and to the Sy Quian and the Sy Tiong Quian to whom you have referred?

A. They are one person only.

Q. Did your grandfather Don Vicente Romero Sy Quia have any brothers or sisters?

A. Yes, sir.

Q. How many?

A. The brothers were Sy Quia, Sy Ty, Sy Tiap and Sy Hien, and the sister Sy Chua Niu.

Q. The Sy Quia you have just named, is that the person you have referred to as Vicente Romero Sy Quia?

A. Yes, sir, the same man.

849 Q. Where is Sy Ty?

A. Do you mean now?

Q. Yes.

A. He is dead.

Q. What relation, if any, is the Sy Ty you have just named to the Joaquin Martinez Ty Tiong Ty whose grave you have just referred to?

A. They are the same person.

Q. Where is Sy Tiap?

A. He is dead.

Q. Where is Sy Hien now?

A. In Manila.

Q. What relation, if any, is he to the Sy Hien who testified in this case?

A. The same person.

Q. Where is Sy Chua Niu?

A. She died in China.

Q. From the time you came to Manila until Vicente Romero Sy Quia died, how often did you see him?

A. Very often, every week. I paid him a visit.

Q. How did he treat you?

A. As a true grandson.

Q. What did you do when you first came to Manila?

A. I studied in the Chinese school.

Q. How long did you study in the Chinese school?

A. Six or seven years.

Q. Where was that school kept?

A. In the house of Sy Ty.

Q. After you left the Chinese school what did you do then?

850 A. I studied Spanish at Calle Elcano.

Q. How long did you study in the Spanish school?

A. A few months only.

Q. Who paid your school expenses while you were in these two schools?

A. My grandfather ordered Petronila Encarnación to give to Sy Ty the money to pay the teachers.

Q. Who paid for your clothes and living expenses while you were going to school in Manila?

A. My grandfather Sy Quia.

Q. Why did you live in the house of Sy Ty?

A. I studied there.

Q. Where is the wife of Vicente Romero Sy Quia now?

A. That of China is dead?

Q. What was her name?

A. Yap Puan Niu.

Q. Was she known by any other name?

Sr. OPISSO: Objected to as repetition.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. What was it?

A. Chu Kun.

Q. What relation are you to the Yap Puan Niu you have just referred to?

A. She is my grandmother.

Q. What relation, if any, is the Yap Puan Niu, whose other name you give as Chu Kun, in Am Thau, to the Don Vicente Romero Sy Quia to whom you have referred as being buried in La Loma?

851 A. They are husband and wife

Q. Where was Yap Puan Niu burried?

A. In China, at Am Thau.

Q. When did she die?

A. Sixteen or seventeen years ago.

Q. Who died first, your grandmother Yap Puan Niu or your grandfather Vicente Romero Sy Quia?

A. Yap Puan Niu died first.

Q. How many times did Yap Puan Niu, whom you have referred to as the wife of Vicente Romero Sy Quia, come to Manila?

A. Twice, and the last time she came here I came along with her.

Q. How long did she stay each time?

A. Three or four months.

Q. Where did she live while she was here?

A. In the house of Sy Ty.

Q. Why did she never stay here longer, if you know?

A. She was very very old, and she only brought me down here to Manila.

Q. Do any of the Chinese in Manila keep their Chinese wives here after they have become old?

Sr. ROSADO: Objected to as irrelevant and immaterial.

Mr. BISHOP: I withdraw the question.

Q. While Yap Puan Niu was in Manila, did you see your grandfather Sy Quia?

A. Yes, sir, Sy Quia used to call at the house of Sy Ty to talk with my grandmother.

Q. How often would he go there?

A. Many times.

852 Q. Did you know a Filipina woman by the name of Petronila Encarnación?

A. Yes, sir, I knew her from before.

Q. What dealings, if any, did you have with her?

A. She was the woman of my grandfather Sy Quia.

Q. What is she now?

A. She is dead.

Q. Did you ever see her and talk with her?

A. Yes, sir, many times, and she also gave me money.

Q. How much money did she ever give you?

A. Six thousand pesos twice.

Q. Do you know the defendants, Don Gregorio Sy Quia, Don Pedro Sy Quia, and Don Juan Sy Quia?

A. Yes, sir.

Q. Who are they?

A. Sons of my grandfather Sy Quia with Petronila Encarnación.

Q. When was the last time you were in China?

A. Last year, together with you, Mr. Bishop.

Q. Do you remember the taking of some depositions in the American Consulate at Amoy?

A. Yes, sir, I do.

Q. During the taking of these depositions were you personally present in the consulate?

A. Yes, sir.

Q. Are you acquainted with all the witnesses that were called to testify?

A. Yes, sir.

Q. Do you know the witness Sy Peng, the first witness called by the plaintiffs?

853 A. Yes, I do, he is one of the oldest men in our pueblo, like a presidente for instance down here.

A. About how old a man is he.

Sr. OPISSO: Objected to as irrelevant and immaterial.

Mr. BISHOP: I withdraw the question.

Q. Do you remember in the taking of that deposition that the witness Sy Peng was asked to point out a person in the consulate, or to identify him?

A. Yes, sir.

Q. Who was the person that that witness pointed out? Who, if anyone, did Sy Peng point out when he testified?

A. I was pointed out.

Q. At the time you were pointed out, were you sitting down or standing up?

A. Sitting.

Q. And did you stand up?

A. Yes, sir.

Sr. OPISSO: Objected to as leading, and furthermore all these questions are irrelevant.

Mr. BISHOP: I am anticipating the defense a little, but I think later the competency of this testimony will be apparent.

Q. Can you write the name of Sy Quia, Sy Quian, Sy Tiong Quian and Vicente Romero Sy Quia in Spanish?

A. Yes, sir.

Q. I will ask you to write in Spanish these names.

Witness writes the name- Sy Quia, Sy Quian and Sy Tiong Quian.

Q. Will you please write again the last name Sy Tiong Quian so that it will not come so near the edge of the page.

854 Witness writes again the name Sy Tiong Quian.

Q. Will you now please write the name of Vicente Romero Sy Quia?

Witness writes the name of Vicente Romero Sy Quia.

Mr. BISHOP: We now offer in evidence the writing which the witness has just made, and ask that it be marked Exhibit AD.

The COURT: There being no objection, it may — received.

Q. Can you write Chinese characters?

A. Yes, sir.

Q. Can you write in Chinese the names of the different members of your family whom you have mentioned in your testimony?

A. Yes, sir.

Q. I will ask you to write in Chinese characters the name of Sy Quia?

Witness writes and the reporter identifies the writing by marking it Name No. 1.

Q. You will now write the name of Sy Quian in Chinese characters.

Witness writes and the reporter identifies the writing by marking it Name No. 2.

Q. What is the first name you have written?

A. Sy Quia.

Q. And the second name?

A. Sy Quian.

Q. You will now write in Chinese characters the name Sy Tiong Quian.

Witness writes and the reporter identifies the writing by marking it Name No. 3.

855 Q. You will now write in Chinese characters the name Yap Puan Niu?

Witness writes and the reporter identifies the writing by marking it Name No. 4.

Q. You will now write in Chinese characters the name Chu Kun?

Witness writes and the reporter identifies the writing by marking it Name No. 5.

Q. You will now write in Chinese characters the name Sy Bi Bo?

Witness writes and the reporter identifies the writing by marking it Name No. 6.

Q. You will now write in Chinese characters the name of Sy Bi Bo's wife, Ho Gim Niu?

Witness writes and the reporter identifies the writing by marking it Name No. 7.

Q. You will now write in Chinese characters the name Sy Bi Git?

Witness writes and the reporter identifies the writing by marking it Name No. 8.

Q. You will now write in Chinese characters the name of Sy Bi Git's wife, Yap Su Niu?

Witness writes and the reporter identifies the writing by marking it Name No. 9.

Q. You will now write in Chinese characters the name Sy Yoc Chay?

Witness writes and the reporter identifies the writing by marking it Name No. 10.

Q. You will now write in Chinese characters the name Sy Jui Niu?

856 Witness writes and the reporter identifies the writing by marking it Name No. 11.

Q. Will you now please write your own name in Chinese characters.

Witness writes his own name, and the reporter identifies the writing by marking it Name No. 12.

Q. You will now write the name of Sy Chua Niu.

Witness writes and the reporter identifies the writing by marking it Name No. 13.

Mr. BISHOP: We now ask to have this paper, on which the witness has just written in Chinese characters the names of the different members of his family whom he had mentioned in his testimony, and ask that it be marked for identification Exhibit AE., and that

it may be made a part of the record as a part of the testimony of this witness.

The COURT: There being no objection, it may be received.

Mr. BISHOP: That is all.

Cross-examination by Sr. ROSADO:

Q. Are you a Christian?

A. No, sir.

Q. What religion do you profess?

A. The Chinese.

Q. What is the Chinese religion?

A. The Chinese custom.

Q. But in what does the Chinese religion consist?

A. The Chinese custom.

Q. Who is the God of the Chinese?

A. One God only.

Q. What is his name?

A. There is only one God all over the world.

857 Q. Do you know what is the Buddhist religion?

A. I do not now.

Q. Do you know who is Confucius?

Mr. BISHOP: Objected to for the reason that Confucius has absolutely no connection with the Buddhist religion, or what is generally recognized as the religion of China.

Q. Do you follow the doctrines of Confucius?

A. Yes, sir.

Q. What is the form of oath in accordance with the rules of Confucius, if you know?

A. In the doctrines of Confucius there is nothing at all mentioned about the taking of an oath.

Q. Is it not true that it is a custom amongst the Chinese who follow the doctrines of Confucius, that they take the oath by cutting the head of a chicken, or by breaking a jar or a bowl?

A. No, sir, there is nothing of that kind mentioned in the doctrines of Confucius.

Q. Is not that a habit of the Chinese?

A. No, sir, that is not a Chinese custom.

Q. Do you know Sy Quia Quiap?

A. He is our relative.

Q. What relationship is there between you and him?

A. The grandfather of Sy Qui Quiap and the grandfather of Sy Quia are brothers.

Q. Who was Sy Que Bieng?

A. He is a cousin of my grandfather.

Q. Do you know Chan Bong Niu?

A. How could I know Chan Bong Niu, when I was not born yet at that time.

858 Q. Do you know Sy Tiong Yian?

A. Yes, sir, Sy Yian and Sy Tiong Yian are one and the same person.

Q. My question is if you know Sy Tiong Yian?

A. That is the father of my grandfather, Sy Quia.

Q. What year did you know for the first time Sy Quia?

A. At Calle Jolo.

Q. Where — you when Sy Bi Bo died?

A. In China.

Q. Where were you when Sy Bi Bo got married?

A. I was not yet born.

Q. Where were you when Sy Bi Git died?

A. In China.

Q. Where were you when Sy Bi Git got married?

A. I was not yet born.

Q. How old were you the first time you came to Manila?

A. Fourteen years of age.

Q. Where were you when Sy Jui Niu got married?

A. In Manila.

Q. Where were you when the son of Sy Jui Niu was born?

A. In China.

Q. Did you not witness the wedding of Sy Jui Niu?

A. I was in Manila at the time.

Q. What year was the first time you came to Manila?

A. In 1886.

Q. The first time you went to see your grandfather, did he recognize you at once?

A. I was accompanied there by Sy Hien, and he talked to him first explained to him that I was the son of Sy Bi Git.

859 Q. Were you present at the time of the funeral of Sy Quia in Manila?

A. Yes, sir.

Q. Is it not the custom amongst the Chinese when a person dies to make nine silk suits of different colors, and place them first upon the eldest son, and if the eldest son is dead or absent, to place the garments on the eldest son of the eldest son, and afterwards on the dead person?

A. Yes, sir, sometimes that is done, and when the eldest son is not there on the son of the eldest son, and then they are put on the wife.

Q. On whom then were those nine different colored Chinese suits put at the time of the death of Sy Quia before they were placed on Sy Quia?

A. I do not know on whom those nine garments were placed, I was not there, I believe I was sent to buy something, but upon placing him in the coffin, I was the one who held him by the head to place him in the coffin.

Q. Then those garments were not place- on you?

A. No, sir.

Q. Were they placed on Sy Yoc Chay?

A. No, sir.

Q. Was Sy Hien there?

A. Yes, sir, I held him by the head and Sy Hien held him by the legs.



Q. Do you know Tomas Sy Quia?

A. Yes, sir.

Q. Who is he?

A. He is the son of Don Gregorio Sy Quia.

860 Q. Was Tomas Sy Quia present at the time of the funeral of Sy Quia?

A. I do not know whether he was there or not. Don Gregorio Sy Quia was not there, and I don't know whether his son Tomas was there, whether he came out from school, or not.

Q. What were you buying on the occasion of the funeral of Sy Quia, when these nine garments were supposed to be worn?

A. I was sent to buy Chinese shoes, according to the Chinese custom, and to take off the leathers of the shoes.

Q. Were these shoes that you were sent to buy part of the nine suits that were to be put on the dead body at that time?

A. Yes, sir.

Q. And in that ceremony of putting on the nine suits, are not the nine shoes put on?

A. First the garments, and then afterwards the shoes.

Q. But was it done at the same time, one after the other?

A. First the suits were put on and then the socks, and then afterwards the shoes, and then they put him in the coffin.

Q. I mean to say that upon placing on him the nine suits there also must be ready there the nine pairs of shoes and the hats, that is they put on the clothes first, and then afterwards the shoes and hats?

A. Yes, sir, but the suits were not like those here with buttons on, they had only ribbons, and afterwards they put on a suit like a priest.

Q. Who put on these nine garments first at the funeral of Sy Quia, before he was placed in the coffin?

A. How could I remember that, I cannot remember who put on those dresses.

861 Q. Is it not true that that forms part of the ceremony, an essential part of the ceremonies, among the members of the family of the deceased?

A. When he was to be placed in the coffin, all the relatives were there.

Q. Do you know who paid for the construction of the monument of Sy Quia, and everything at the graveyard?

A. Petronila Encarnacion.

Q. Do you know the significance of that name "Evaristo", which is at the head of Exhibit AB., on the left hand side of the page?

A. I do not know what that word "Evaristo" means, I only copied that from the tombstone.

Q. Do you know to whom of the members of the family of Vicente Romero Sy Quia that word "Evaristo" refers?

A. I believe Petronila Encarnación put there on the tombstone that name "Evaristo".

Q. Look at this Exhibit AB. again, at the word "Ricardo" at the head of Exhibit AB. on the right hand side, and state if you

know, to whom of the members of the family of Vicente Romero Sy Quia that word "Ricardo" refers?

A. I do not know who put this word on the tombstone, or who made that tombstone.

Q. Do you know to whom of the members of the family this word "Vicente" belongs, which is found on the monument of Sy Quia?

A. That is the Christian name of Sy Quia, all called him Vicente.

882 Q. The name "Vicente" on the four corners, to whom does that refer?

A. To Vicente Romero Sy Quia, every one knows that name.

Q. On the tombstone of Vicente Romero Sy Quia there appears the name of Vicente Romero Sy Quia, and then two names repeated "Vicente" and "Vicente": do you know to whom these two last names "Vicente" and "Vicente" refer?

A. It is the same as Vicente Romero Sy Quia.

Q. Do you know any of the members of the family of Vicente Romero Sy Quia by the name of "Evaristo", "Ricardo" or "Vicente" and "Vicente" again?

A. I always heard him called Vicente Romero Sy Quia, but as to this "Evaristo", I do not know, whether that is a Christian name or not.

Q. Vicente Romero Sy Quia and Sy Ty lived in different houses, is that not so?

A. Yes, sir.

Q. I mean to say that when you knew Sy Quia he was living in a different house from Sy Ty?

A. Sy Quia lived at Calle Jolo, and Sy Ty at Calle San Fernando.

Q. And ever since you became acquainted with Sy Quia he always lived separate from Sy Ty, is that not so?

A. Always separate.

Q. What position did you hold in the house of Sy Ty?

A. When I arrived first I only stayed there to study, and when I was not studying any more I was given money by Petronila Encarnación to start in business, she gave me four thousand pesos the first time.

Sr. ROSADO: I move that the last part of the answer of this witness to the last question, be stricken from the record as not  
883 responsive.

The COURT: Motion denied, this is cross-examination, a witness may answer what he sees fit on cross-examination.

Sr. ROSADO: Exception.

Q. How many years have you at the present time?

A. With this new year I will be thirty-five but in the Chinese year I am not that yet.

Q. How many years did you have the first time you came to Manila?

A. Fourteen.

Q. After the first time you came to the Philippine Islands, how many times did you go back to China?

A. Twice.

Q. How old were you the first time you went back to China?

A. I was thirty-one years of age.

Sr. ROSADO: That is all.

Cross-examination by Sr. LEGASPI:

Q. You have testified that you knew your great grandparents, the father of your grandfather?

A. No, sir, I did not know them, I was not born yet at that time.

Q. Who informed you of the name of your great grandfather, whom you have testified about?

A. My grandmother Yap Puan Niu as well as many relatives of mine, who informed me about these names, we frequently talked about it, and I also knew it from the fiestas celebrated for a dead person.

Q. Do you know who died first, whether your great grandfather or your grandfather?

864 A. From information that I heard, Sy Tiong Yian died first, and then Chan Bong Niu.

Q. Do you know who died first, whether Sy Quia or Sy Tiap?

A. Sy Tiap died first.

Q. Do you know where Sy Tiap died?

A. At sea.

Q. Was he a brother of Sy Quia?

A. Yes, sir.

Q. Was he married at the time of his death?

A. No, sir.

Q. When did he die?

A. A long time ago.

Q. Did you know him personally?

A. No, sir, I did not know him.

Q. Where were you when Sy Tiap died?

A. I believe I was not yet born when he died, I only heard that he died at sea, somewhere off Cagayan.

Q. So you cannot state positively as to whether Sy Tiap when he died was single or married?

A. In China he was not married, he was single.

Q. Do you know that of your own knowledge?

A. I know it by information.

Q. Do you know if Sy Ty and Sy Hien are real brothers of Sy Quia?

A. Sy Ty is an adopted son, but Sy Hien, Sy Quian and Sy Chua Niu are of the same father and mother.

Q. How do you know that Sy Hien is a true brother of Sy Quia?

A. Why not, I always heard it talked about that they were true brothers, and the face of Sy Hien resembles very much the face of Sy Quia.

865 Q. Who is the oldest, Sy Quia or Sy Hien?

A. Sy Quia.

Q. How many years difference is there between them?

A. About twenty-five years.

Q. Do you know whose son is Sy Yoc Chay?

A. The son of Sy Bi Bo.

Q. From what sources have you learned that Sy Yoc Chay was the son of Sy Bi Bo?

A. By information.

Q. Do you know Generoso Mendoza y Sy Quia?

A. Yes, sir.

Q. Who is Generoso Mendoza y Sy Quia?

A. The son of Angel Maria.

The COURT: Is that only one person?

A. Yes, sir, one person.

Q. What relationship is there between Angel Maria and Sy Quia?

A. Angel Maria is the daughter of Sy Quia.

Q. I will ask you to look at Exhibit AB., of the plaintiff, and will ask you to state to whom does this disconsolate wife sons, grandsons, brothers and nephews refer, do they refer to the wife in China, or do they refer to the wife here: was Yap Puan Niu living when Sy Quia died?

A. No, sir, Yap Puan Niu was already dead.

Q. Then it could not refer to her, because she was already dead and burried.

A. That is a Spanish custom, and I do not know anything about it.

Q. Do you mean to say by that that you are ignorant of the facts?

A. That is a Spanish custom, and I don't know anything about it.

866

Sr. LEGASPI: That is all.

Cross-examination by Sr. OPISSO:

Q. When you came to Manila, was you- father living or dead?

Mr. BISHOP: Who are you representing?

A. I am with Sr. Rosado.

Q. Then it is not competent for two attorneys representing the same client to cross-examine.

The COURT: The attorneys for different clients may cross-examine, but two attorneys representing the same client may not, that is too much, that is not permitted anywhere.

Sr. OPISSO: Exception.

Recross-examination by Sr. ROSADO:

Q. How long after your father's death did you come to Manila?

A. When I was eight years old my father died, and when I was fourteen years old, I came to Manila, that is six years after.

Q. When you came to Manila was Sy Bi Bo living or dead?

A. He was dead.

Q. How many years before you came to Manila did Sy Bi Bo die?

A. Between the death of Sy Bi Bo and Sy Bi Git there was a difference of only two years, Sy Bi Git died first, and two years after Sy Bi Bo died.

Q. But how many years before your coming to Manila did they die?

A. Four years after their death I came to Manila.

Sr. ROSADO: That is all.

867 Redirect examination by Mr. BISHOP:

Q. You have stated that you were thirty-four years of age when you returned to China; do you mean to say by that that it was when you returned to China to get married, or when you went to China for the taking of the depositions in this case?

A. I was thirty-one years of age when I went to China to get married, and I was thirty-four years of age, when I went with you, Mr. Bishop, to take the depositions.

Mr. BISHOP: The plaintiffs now offer in evidence the depositions of a number of witnesses taken before the American Vice-Consul, at Amoy, China, under the stipulation and commission issued out of this Court on the 20th day of August, 1906; the taking of such depositions commencing on the 4th day of September, 1906, and closing on the 29th day of September, 1906.

Sr. OPISSO: We now renew the motion we made at the beginning of the trial that the depositions taken before the United States Consul at Amoy, China, Hon. Rea Hanna, be not admitted to the record, for the reason that the witnesses were not sworn according to the request made by the defendants that the witnesses should be sworn in accordance with the Chinese custom, which request was not granted by the Consul, and was in fact refused by him, stating that the Consul General was not authorized to administer an oath in any other manner except as provided by the regulations of the United States Consular Courts in China. The Vice-Consul stated that he acted in accordance with Chapter 13 of the regulations for United States Consular Courts in China, whereas in these regulations it appears that Chinese not Christians should be sworn accord-

868 ing to their religious belief. The Vice-Consul stated that it was the practice in consular courts in China to administer the oath as follows: "You do solemnly swear that the evidence you will give in this case shall be the truth, the whole truth and nothing but the truth, so help you God," and then add: "If what you are going to state is not the truth you will be subject to the pains and penalties of Perjury." Now only the first part of this oath was administered by the Vice-Consul, against our protest that the oath be administered to the witness according to the Chinese custom of cutting the witness's hand, and only when the witness had ended his testimony and just before signing it he made the caution, that if it was found that what he had stated was not the truth he would be subject to the pains and penalties of perjury. I therefore ask that these depositions be not admitted into the record.

The Court: The circumstances of the administration of the oath are fixed by law in any country, and it does not make any difference what the practice is somewhere else, any other practice than that fixed by law is prohibited, but even if the Consul had said that he

was going by certain rules that they should be sworn according to the religion of their country, there is nothing to show what the form of religion of their country was, nothing to indicate it, and every time that a witness was asked here in the trial of the case, whether he knew of any such form he said "no," but had heard that sometimes they did certain things in a certain way. Now the best Chinese people inform me that there is no such thing as taking the oath in that way, either with their religion or their  
369 jurisprudence. I have heard that among the Filipinos, in the Katipunan for instance, they have a certain way of swearing, and also among certain associations of the Spaniards, and to bring into this court the proposition to swear the witness in any such manner as in such organizations is not worthy consideration. The objection as I understand is directed to all the depositions which have been offered, and as to all of the depositions is denied.

Sr. Orisso: Exception.

The hearing was then adjourned until 8 a. m. the following day.

JANUARY 23d, 1907.

Pursuant to adjournment the case was called this a. m., with the same appearances.

Mr. Bishop: I will now read the deposition of Li Ung Bing, taken at Amoy, China, before the American Vice-Consul, in order that your Honor may rule on the objections to the testimony made therein.

The Court: Proceed.

Mr. Bishop then read the deposition of Li Ung Bing, and the rulings of the Court to the objections made will be found at the end of this transcript, under the head "Rulings of the Court on the objections made in the deposition of Li Ung Bing."

Mr. Orisso: I move to strike out the testimony of the witness Li Ung Bing from the record, on the ground that he has  
370 stated that the laws of China are both written and unwritten, but has not stated which is which, and therefore his testimony is very vague, and all his testimony as to written law would only be an opinion of the witness, an attempt by the witness to interpret the written law, and we object to the written law being interpreted by him, the best evidence being the written laws themselves.

The Court: That is not true, never true, there is no such rule of evidence. The law should be interpreted by he who is learned in it. This court could not interpret it if you had the written law, you have got to have some one to testify what it is. The motion is denied.

Sr. Orisso: Exception.

Mr. Bishop: I will now read the deposition of Sy Peng, taken at Amoy, China, before the American Vice-Consul, in order that your Honor may rule on the objections to the testimony made therein.

The Court: Proceed.



Mr. Bishop then read the deposition of Sy Peng, and the rulings of the Court to the objections made therein will be found at the end of this transcript, under the head "Rulings of the Court on the objections made in the deposition of Sy Peng."

Mr. Bishop: I will now read the deposition of Lim Chio, taken at Amoy—

The Court: There is no use in reading any further depositions. I will pass on all objections, make rulings, and grant an exception in each case. Any serious objections you may have that cannot be passed upon intelligently you may call my attention to; and I will hear your arguments thereon.

The hearing was then adjourned until 8 a. m. the following day.

JANUARY 24TH, 1907.

Pursuant to adjournment the case was called this a. m. with the same appearances.

Mr. O'Brien: We now offer in evidence a certified copy of the protocol of record of the partition of the property of all kinds and descriptions left from the estate of Vicente Romero Sy Quia, and certified to by Manuel de Yriarte, Chief of the Bureau of Archives of the City of Manila, P. I., duly authenticated, rubricated and certified to, and ask that it be marked Exhibit A F.

The Court: There being no objection, it may be received.

Mr. O'Brien: I also offer in evidence the record in Case No. 4608, entitled "Legalization of the will of Patronila Encarnación," and reserve the right to present certified copies of such parts of this record as may be agreed upon between the attorneys as pertinent to this issue.

The Court: There being no objection, it may be received.

Mr. Bishop: We ask leave to recall the last witness Sy Yoo Leng, upon one matter that we did not go into in direct examination, as we think it ought to go in in connection with our offer as to what property, if any, Romero Sy Quia had at the time of his death, for the purpose of keeping each section of the case together, it is purely formal.

872. Sr. Orisso: We think the testimony of this witness is not necessary in this connection.

The Court: You may examine this witness, but I do not see quite yet where it is going to come in.

Sr. Orisso: Exception.

Sy Yoo LENG, being recalled as a witness in his own behalf, testified as follows:

Direct examination by Mr. Bishop:

Q. Have you received any part of the property left by Vicente Romero Sy Quia, deceased?

Sr. Orisso: Objected to on the ground that the certified copy of the partition of the estate speaks for itself.

The Court: But they might have delivered him some afterwards.



Sr. OPISSO: Exception.

A. No.

Q. Do you know what property was left by Don Vicente Romero Sy Quia at the time of his death?

Sr. OPISSO: Same objection.

The COURT: Same ruling.

Sr. OPISSO: Exception.

A. I only heard that there were many houses.

Sr. OPISSO: I move that this answer be stricken out as hearsay.

The COURT: He may answer that.

Sr. OPISSO: Exception.

Q. Has Patronila Encarnación in her lifetime, since the death of Vicente Romero Sy Quia, or Gregorio Sy Quia or Pedro Sy Quia or Juan Sy Quia or the parents of Generoso Mendoza or Generoso Mendoza, given you any information as to what property was left by Vicente Romero Sy Quia upon his death?

A. No, sir.

Q. Can you give a list of what property was left by Vicente Romero Sy Quia upon his death?

Sr. OPISSO: Objected to on the ground that the certified copy of the partition speaks for itself, and is the best evidence.

The COURT: I do not know how you can make proof of the necessity of discovery in any other way; if all were included in the partition there would not be any ground of discovery. The question may be answered.

Sr. OPISSO: Exception.

A. I do not know, but when Patronila Encarnación was living she made a will.

Q. Have any of the defendants in this case at any time since the death of Vicente Romero Sy Quia given you any information as to the property left by him at his death?

Sr. OPISSO: Objected to as repetition.

Mr. BISHOP: The question is not finished yet, I will add: as an heir of the deceased.

Sr. OPISSO: The same objection, and furthermore that it calls for a conclusion of law.

Mr. BISHOP: I withdraw the question.

Q. Have you frequently talked to your sister, and to your cousin Sy Yoc Chay, in reference to the property left by Vicente Romero Sy Quia: answer yes, or no.

874 Sr. OPISSO: Objected to as immaterial.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

A. Yes, sir.

Q. Do you know whether your co-plaintiffs have knowledge and

information of the property left by Vicente Romero Sy Quia at the time of his death?

Sr. OPISSO: Objected to as calling for hearsay evidence.

The COURT: Let him testify, one plaintiff may testify as to what the other plaintiffs know: objection overruled.

Sr. OPISSO: Exception.

A. They know.

Q. Do they know the particular pieces of property and kinds of property that Sy Quia left when he died?

Sr. OPISSO: Objected to on the same ground as the previous question, and because the witness has already answered "no".

The COURT: He answered the question, and clearly what he meant to say was that they know he left property, the question is proper.

Sr. OPISSO: Exception.

A. Some they know, and some not.

Mr. BISHOP: That is all.

Sr. OPISSO: No cross-examination.

C. W. O'BRIEN, called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct Examination by Mr. BISHOP:

Q. State your name?

A. C. W. O'Brien.

875 Q. Where do you live?

A. No. 8 Santa Mesa Heights.

Q. What is your occupation?

A. Attorney at law.

Q. Are you a member of the Bar of the Philippine Islands?

A. Yes, sir.

Q. How long have you been acquainted with the plaintiffs in this case?

A. Some three or four years.

Q. Have you had any occasion to make any investigation as to the property that was left by Don Vicente Romero Sy Quia, at the time of his death?

A. I have.

Q. And that investigation has covered generally about what period of time?

A. About three years ago I commenced the investigation and it covered perhaps a period of two years from that time.

Q. And how and where did you make that investigation?

A. Among the court records, and the archives of the Registry of Property of the City of Manila.

Q. Did you make any other investigation?

A. A personal investigation in conversation with parties who might have been familiar with the property.

Q. Could you ascertain from the court records of the old Court

of First Instance of the City of Manila as to the list of property that was left by Don Vicente Romero Sy Quia?

A. The records, as far as I was able to find are shown in Plaintiffs' Exhibit AF., but a large amount of this property was in money, distributed and converted into other property which I could not trace.

876 Q. Who on behalf of the plaintiffs, or the plaintiffs' attorneys, have been charged with the special duty of investigating what property was left by Don Vicente Romero Sy Quia, and to tracing the changes of that property into other property?

A. I have.

Q. Do you know what property was left by Don Vicente Romero Sy Quia at the time of his death, and as to what changes, if any, has been made in that property since the distribution among the defendants in this case?

A. The property as left by the inventory of the administrator of his estate is set forth in the court record, but as to the changes and as to what has become of the property and money, I am unable to find as to all of it.

Mr. BISHOP: That is all.

Cross-examination by Sr. ROSADO:

Q. How do you know that the greater part of the property that was left by Don Vicente Romero Sy Quia was in cash?

A. I stated a great part, and I know it from the records.

Q. What record do you mean?

A. I believe in the court records, however it is included in the document I have offered as Exhibit AF.

Q. Will you kindly state, if that is in the Exhibit already presented by you, where it is to be found?

A. On Page 51 of Exhibit AF. there appears an entry in regard to 175,080.10 pesos of money.

Q. Did you examine carefully from the Registry of Property in regard to the property described in the complaint in Exhibit A.?

877 A. I first got a detailed list of all the property that appeared in the names of the defendants, or that stood in the name of Vicente Romero Sy Quia, and I found that some of the property still remained in his name, and from that I got a copy of the description of the property.

Q. Is it not true that a greater part of the property that you describe in Exhibit A., and which appears in the Registry of Property as Petronila Encarnación's, without specifying that it was received from the estate of Sy Quia, was received by purchase, and not inheritance from Vicente Romero Sy Quia?

A. I am unable to state where this property was received from, that is exactly what I was unable to discover, as to what money she purchased this property with, or with what property she made the purchase. It is possible that some of this was purchased before his death.

Q. The question is as to whether the greater part of the property was not inherited by Petronila Encarnación, but was received by purchase before the death of Vicente Romero Sy Quia?

A. A large part, I cannot state just what, is in the name of Petronila Encarnación, but there is nothing in the records that shows whether it was bought with her money or with money of the estate of Vicente Romero Sy Quia, so far as I know.

Q. Is it not true that in these records there is nothing from which you can find out whether this was purchased by money of Doña Petronila Encarnación, or money of Vicente Romero Sy Quia?

878 A. I have already stated that I could not deduce from the records with what money she bought this property.

Q. In many of the entries of inscription of the property described in Exhibit A, as property of Doña Petronila Encarnación, and of the other defendants, is it not true that in many of them there does not appear even the name of Vicente Romero Sy Quia?

A. It is true that his name does not appear and I deduce from that that it is possible she had been converting this same property into property in her own name.

Q. So it is merely a conclusion of yours?

A. That is from my investigation.

Q. What were these investigations you had made?

A. From the records of the property left.

Q. What records do you mean?

A. The ones I have referred to.

Q. I desire to know what investigations you made so as to include in Exhibit A, the property in the Registry of Property which is inscribed in the name of Doña Petronila Encarnación and of the other defendants, without appearing on the same Registry that there is any connection or relation with the inheritance of Vicente Romero Sy Quia?

A. As I formerly stated, a part of the estate of Vicente Romero Sy Quia was left in money, and I deduce from that that they had used this money to purchase this property which was registered in their names, and that they had possibly sold some of the property which they had received, and from the proceeds of that purchased the other property.

879 Q. Do you know in what was invested this 175,060.10 pesos that you have referred to in Exhibit AF.?

A. I believe it was shown what was done with it in the partition, but nothing further.

Sr. ROSADO: That is all.

Redirect examination by Mr. BISHOP:

Q. Did you try to ascertain what property, if any, had been purchased with the 175,060.10 pesos, and what had become of it?

A. I made inquiry but there was no one who had any interest in the property who would give me any information in regard to it.

Mr. BISHOP: Counsel for the plaintiffs now offer to read into the record the preface to the Anglo Chinese Calender covering the

period from January 1st, 1864, to December 31st, 1913, being from the first year of the 76th Cycle to the fiftieth year of the 76th Cycle. We make the offer in this form to avoid encumbering the record, as the purpose of the testimony is to show the Cycle periods as used by the Chinese.

Sr. SUMULONG: Objected to as incompetent.

The Court: Objection sustained.

WILLIAM H. BISHOP, called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. State your name?

A. William H. Bishop.

880 Q. Where do you live?

A. In Manila, P. I.

Q. What is your occupation?

A. Attorney at law.

Q. Are you a member of the Bar of Manila?

A. I am.

Q. How long have you been attorney at law?

A. Since 1883.

Q. Examine Plaintiffs' Exhibits AH., AI., AJ. and AK, marked only for identification, and state what they are?

A. These are four of the forty volumes of the written statutes of China, which are commonly used and admitted in the courts and in the administrative offices of China.

Q. Do these statutes contain the laws that are referred to by the witness Li Ung Bing, in the deposition taken before the American Consul in Amoy, commencing on page 24 of his deposition.

Sr. SUMULONG: Objected to on the ground that this witness has not been shown to be familiar with the laws of China.

The Court: It is possible that the objection might be good as to certain points, but as to the identification of the volumes referred to by the witness Li Ung Bing, the volumes from which he had quoted extracts, that may be properly answered, because that would not need any knowledge of the laws which these volumes contain.

Q. Do these four volumes contain the citations referred to by the witness Li Ung Bing, commencing on page 34 of his deposition in Amoy?

881 Sr. SUMULONG: Same objection.

Mr. O'BRIEN: I will withdraw everything after the first question, and the answer identifying the volumes.

Cross-examination by Sr. SUMULONG:

Q. Do you read or write the Chinese language?

A. I do not.

Q. How do you know that these citations mentioned by the wit-

ness Li Ung Bing in his deposition are contained precisely in these volumes which you have referred to?

A. From talking with Li Ung Bing, and with the Chinese Consul General in Manila, with Chinese teachers in Manila, and with two very prominent and educated Chinese merchants here in Manila, and incidentally from several conversations and much correspondence with English lawyers in Hongkong and Shanghai, and also from conversations with at least one English lawyer and one of the Chinese magistrates in Amoy, also with several educated Chinese in Amoy, as well as with the American Consul and Vice Consul at Amoy. I would like to say that one of these volumes, marked Exhibit A1., is in addition to the citations given by Li Ung Bing, and I am in doubt as to whether the Royal Decree at Canton of Exhibit A11. is the one referred to in his citations.

SR. SUMULONG: I move that there be stricken from the record all the statement of Mr. Bishop in regard to the authenticity of these volumes, and in regard to the contents of said volumes, and the authority they could have, for the reason that said volumes and the laws contained therein have not been proven.

882 THE COURT: Nothing has been said about authenticity, but I do not think there is enough authority to prove they are the laws of China, but the testimony does prove the fact that these volumes are commonly used.

MR. BISHOP: We will for the present ask to pass that matter, and I will meet the objection of the other side by having a party come here whose time I did not want to take.

THE COURT: I have no doubt but that the objection is purely technical and has no force in reality, but it is technical under the law, as most of the other objections which have been made here.

MR. BISHOP: I will ask the Court then to request the Consul General of China to come here, and will make no further offer in regard to these books until after we have called him. I think that is all the evidence we expect to offer in this case, but would like this matter to be passed until to-morrow morning, so that Mr. O'Brien and myself can see whether we have introduced all the records we should.

THE COURT: The case is suspended until 8 o'clock to morrow morning.

JANUARY 25TH, 1907.

Pursuant to adjournment the case was called this morning, with the same appearances.

SY YU TCHU, called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct examination by MR. BISHOP:

883 Q. State your name?

A. Su Yu Tchu.

Q. Where do you live?

A. At the Chinese Consulate.

Q. In Manila?

A. Yes, sir.

Q. What is your official position?

A. Chinese Consul General in the Philippine Islands.

Q. Where were you educated in the English language?

A. In America.

Q. What college in China?

A. In the official school at Canton.

Q. How long have you been in the service of the Chinese Empire officially?

A. Do you mean including when I was a government student?

Q. Yes.

A. Since 1873 as a government student.

Q. The Empire of China has written statutes, has it?

A. Yes, sir.

Q. Do you remember how many volumes there are of the written statutes?

A. I do not remember.

Q. Do you remember about how many?

A. I only know they are about a yard wide, I never counted them, I only know about the size.

Q. I will hand you four books, marked for identification Plaintiff's Exhibits AH., AI., AJ., and AK., and will ask you to state, if you know, what these books are?

A. This is a compilation of the revised edition of the 884 statutes of the Chinese Empire of the Tai Ching Dynasty, that is a part of the whole set.

Q. State, if you know, whether or not these statutes are commonly admitted and used in the courts and tribunals and before the administrative officers of the Empire of China?

A. Yes, sir, they are used as the authority.

Mr. BISHOP: That is all.

Cross-examination by Sr. ROSADO:

Q. Are you an attorney-at-law?

A. No, sir, I am not a lawyer.

Q. Have you had an opportunity to study the laws of the Chinese Empire?

A. I have read some of them, but not as a regular study only for reference in reports.

Q. When did you have that opportunity of just looking at these laws?

A. During my service with the Government.

Q. Have you compared these books which are before you now with any other books exactly similar to them used by the Government of China?

A. They are all alike, only different editions, all copies of the original.

Q. But did you compare them with the original?

A. I have not seen the original, the books are published from



the original in the hands of the Government, but I never had a chance to compare any of these editions with the original, but it is understood they are true copies.

Q. Are these books certified officially?

885

A. Not the book, but the versions are.

Q. I mean are these books before you now certified, the book you are examining, Exhibit AH.?

The COURT: Has any officer of the Empire of China certified that that is a true copy?

A. There are all the names of those who codified this law.

Q. Will you kindly show us the page where you can find the certification of an official of the Chinese Empire?

A. What I see is not certified to. The way in China is: these books are published by all the booksellers, and how can a book in a bookstore be certified. They are supposed to be copies from the original. Any law book can be published by the booksellers, and they are not especially published by the Government.

Q. Do you mean to say by that, that the one who printed and sold that book is a private person and not the Government.

A. Not the Government. The Government does not publish books, but they cannot be falsified, because if the Government finds out they are not true copies of the original, there is a severe punishment inflicted.

Q. So you cannot affirm here now that this book, Exhibit AH., is an exact copy of the original?

A. No, sir, I cannot affirm as to that particular book.

Sr. ROSADO: That is all.

Redirect examination by Mr. BISHOP:

Q. What is mean- by the word "Cycle", in reference to computing time in China.

886 A. We have a period of sixty years, and after counting sixty years we go back again. A period of sixty years is counted and then we commence at the first year again.

Q. There are twelve months in the Chinese Calender, are there not?

A. Yes, sir.

Q. And each of these months has a name?

A. There is only a fancy name, it is not official.

Q. Are these twelve months known as a Cycle?

A. No, sir, they have the hours, like twelve watches of the day that is one part of the twelve. They have twelve characters and ten characters, and the combination of the two makes a combination of sixty.

Q. Is there any difficulty in translating the exact sound of a Chinese word into English?

A. There is no certainty on account of the different dialects.

Q. Would two educated Chinese, educated in both English and Chinese, pronounce the translation of a word from Chinese into English exactly the same?

A. No, sir, not even in the same dialect.

Mr. BISHOP: That is all.

Sr. ROSADO: I have no further questions to ask.

Mr. BISHOP: We now offer in evidence plaintiff's exhibits AH., AL., AJ., and AK., and in connection with this offer we desire to say that we have the other thirty-six volumes of the statutes of China, and we will ask that these four volumes now offered in evidence be placed in the hands of the clerk of this court subject to inspection by counsel on both sides, and that we later be permitted to furnish a translation of the citations referred to in the  
887 answers of Li Ung Bing commencing on page 24 of the Amoy deposition; also all that part of the volume marked Exhibit AL., which gives the Chinese law in reference to marriage and the distribution of property.

Sr. ROSADO: We object to the admission of these books in evidence for the following reasons: First, that it has not been shown to be a law thoroughly identified; Second, that the law is presented partially, all the law is not presented; Third, that the last witness has testified that he is not a lawyer; Fourth, that on some of the pages of these books are some loose pages glued to the pages of the book, and which are in handwriting.

Mr. BISHOP: I would like to add to our offer: and that the other volumes of the statutes which are in our office, are at the disposition of counsel and the Court, and that the reason we especially asked for the privilege of withdrawing these volumes is because they belong to the American Consulate in Amoy, and must be returned in the course of a few weeks. In answer to the last objection of counsel we desire to call the attention of counsel on the other side and the Court to the fact that the upper part of these books are commentaries, the statutes being the lower half of each page where a line is drawn across; and that the loose pages counsel refers to are simply commentaries upon the statutes by the publisher of the book.

The COURT: Objection overruled.

Sr. ROSADO: Exception.

Mr. BISHOP: We now offer in evidence, and ask that the same may be read into the record, part of the preface of "Mac-  
888 Gowan's English and Chinese Dictionary of the Amoy Dialect", the part of the preface reading: "In the Amoy dialect there are really only seven tones \* \* \* I shall make no attempt to describe these tones, as I consider it impossible to give even an approximate idea of their sounds on paper. They must be learned from the living voice, and no possible amount of description of them will compensate for the loss of that." And in this connection we desire to say, and will offer proof if there is any question about the fact, that this dictionary is commonly used in Amoy, especially by the missionaries, and that the author has been a resident of Amoy for forty years or more.

Sr. ROSADO: Objected to on the ground that this is not proven

to be an official dictionary, or to be an authentic copy, and as incompetent.

The COURT: Yes, it has not been given the character of evidence. Objection sustained.

Mr. BISHOP: No exception. We now present as proof the plea which appears in the record.

Sr. ROSADO: Objected to because the allegations of the complaint, even though made under oath, are not evidence.

The COURT: I think it is so, it could not be received as evidence of anything, but may be considered the same as if you had come and asked for the appointment, ex parte without trial, of a receiver, or for discovery, which might be granted. It cannot be received as evidence on the trial of the case.

Mr. BISHOP: That is our case, if your Honor please.

889

*Defense.*

FELIX MILLAN, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. LEGASPI:

Q. State your name?

A. Felix Millan.

Q. Where do you live?

A. At Vigan.

Q. How old are you?

A. Sixty-nine years of age.

Q. Do you know Vicente Romero Sy Quia?

A. Yes, sir.

Q. How did you become acquainted with him?

A. Because my father used to be his employee.

Q. Where did you know Vicente Romero Sy Quia?

A. At Vigan.

Q. When did you become acquainted with him?

A. When I was nine years of age.

Q. When you knew him was he married or single?

A. I supposed that he was a single man, because he was very young.

Q. Do you know whether he got married or not?

A. Yes, sir.

Q. To whom did he get married?

A. To Doña Petronila Encarnación.

Q. In what year did he get married?

A. I must have been about fifteen or sixteen years of age when he got married.

890 Q. Of what place is Doña Petronila Encarnación a native?

A. A native of Vigan.

Q. How did you become acquainted with Doña Petronila Encarnación?

A. Because she was a countrywoman of mine, born in the same town, and I am somewhat related to her.

Q. What relationship is there between you and Doña Petronila Encarnación?

A. My mother is related to Doña Petronila Encarnación.

Q. Do you remember more or less what year you became acquainted with Doña Petronila Encarnación?

A. At the time when the Captain-General went to Vigan, when it was a custom that all school boys should receive him with flags.

Q. You have stated before that you knew Doña Petronila Encarnación?

A. Yes, sir.

Q. Now I ask you, when did you know Doña Petronila Encarnación?

Mr. O'BRIEN: Objected to on the ground that it is repetition, and has already been answered.

The COURT: He simply stated that when the Captain-General went there the boys met him with flags.

Mr. O'BRIEN: I withdraw the objection.

A. When I had sense I knew her, and furthermore because we lived together.

Q. How do you know that Doña Petronila Encarnación was married to Don Vicente Romero Sy Quia?

A. I know because when they got married I was also in the church.

Q. Do you remember where Doña Petronila Encarnación was living before she got married to Vicente Romero Sy Quia?

A. Yes, sir.

Q. Where?

A. In the house of Doña Florentina de Leon.

Q. In what town?

A. The town of Vigan.

Q. How long was Vicente Romero Sy Quia in Vigan before he got married to Doña Petronila Encarnación?

A. I do not remember how long, but at that time I was already a grown boy.

Q. More or less, can you state approximately how old you were when you became acquainted with Don Vicente Romero Sy Quia at Vigan?

A. I was nine years of age.

Q. If you were nine years of age when you knew Vicente Romero Sy Quia, how old were you when you saw Don Vicente Romero Sy Quia get married to Petronila Encarnación?

A. I was about fifteen or sixteen years of age when Don Vicente Romero Sy Quia married Doña Petronila Encarnación.

Q. If so, you mean to say that you knew Don Vicente Romero Sy Quia in Vigan about six or seven years before he got married to Doña Petronila Encarnación there?

A. Yes, sir.

Q. From the time you were about nine years of age, when you became acquainted with Don Vicente Romero Sy Quia, up to the time you were fifteen or sixteen years of age, when

you say Don Vicente Romero Sy Quia got married to Doña Petronila Encarnación, during all that time did you know him?

A. Yes, sir, at Vigan.

Q. Did he not go away at all from Vigan during all that period of time until he got married to Doña Petronila Encarnación?

Mr. BISHOP: Objected to as ~~cross~~-examination of their own witness.

The COURT: I think the question may be answered, it is leading, but at the same time you have got to get this witness to indicate the time he is testifying about.

Mr. BISHOP: Exception.

A. During that period of time Don Vicente Romero Sy Quia remained permanently in Vigan, but afterward he got married and came to Manila.

Q. How do you know that Don Vicente Romero Sy Quia came to Manila only after he got married to Doña Petronila Encarnación?

Mr. BISHOP: Objected to for the reason that it is cross-examination of their own witness.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

A. Yes, sir, I knew that they went to Manila because when they were preparing to go to Manila I was a neighbor of theirs, living very near them.

Q. How long after the marriage of Don Vicente Romero Sy Quia to Doña Petronila Encarnación, did they go to Manila?

893 A. Hardly a year.

Q. Do you know whether or not Don Vicente Romero Sy Quia became a Christian, or not.

A. Yes, sir, I know it.

Q. Do you know when he became a Christian?

A. I do not remember when.

Q. Do you know where he was baptized.

A. At San Vicente.

Q. What is that San Vicente, a town, or what?

A. A pueblo.

Q. Where is that pueblo you call San Vicente?

A. Very near Vigan, a distance of about two kilometers.

Q. What province does the pueblo of San Vicente belong to?

A. The province of Vigan, before it was an independent town but now it forms part of the municipality of Vigan.

Mr. BISHOP: Objected to as immaterial and ask that it be stricken out.

The COURT: It may stand, there is no province of Vigan and evidently the witness did not mean that.

Q. Do you know whether or not Don Vicente Romero Sy Quia and Doña Petronila Encarnación had children?

A. Yes, sir, I know they had children.

Q. How many children did they have?

A. Five.

Q. Can you give their names?

A. Apolinaria, Maria, Gregorio, Pedro and Juan.

894 Q. Where do they live now, these children of Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. The two women are dead, the men are living.

Q. Where did the women die?

A. Apolinaria died in Manila, and Maria died at Vigan.

Q. Do you know whether or not before her death Maria was single or married?

A. She was married.

Q. To whom did she get married?

A. To Eustaquio Mendoza.

Q. Do you know if Eustaquio Mendoza had a son with Maria Sy Quia?

A. He had two, the first one died while small, and the second one is living by the name of Generoso.

Q. Where is Generoso Mendoza now?

A. He is here in Manila.

Q. Is he here in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the defendant Generoso Mendoza).

Q. If I am not mistaken you have already stated that Don Vicente Romero Sy Quia and Petronila Encarnación had five children, and also stated that the two girls died: will you please state the names of the sons?

A. Gregorio, Pedro and Juan.

Q. Where are they now?

A. Here in Manila.

Q. Are they in the court room?

A. Yes, sir.

895 Q. Will you kindly point out Gregorio Sy Quia?

A. There he is (indicating the defendant Gregorio Sy

Quia).

Q. Will you kindly point out Pedro Sy Quia?

A. There he is (indicating the defendant Pedro Sy Quia.)

Q. Will you kindly point out Juan Sy Quia?

A. There he is (indicating the defendant Juan Sy Quia).

Q. Where were these children of Vicente Romero Sy Quia and Petronila Encarnación born?

A. At Vigan.

Q. You stated not long ago that Don Vicente Romero Sy Quia and Doña Petronila Encarnación after they were married came to live in Manila, and now you state that the five children were born at Vigan: will you kindly explain how that is?

A. Yes, sir, this is the reason, because when Doña Petronila Encarnación was about to give birth to a child, she always went to Vigan and gave birth to it there.

Q. How do you know that Doña Petronila Encarnación always went to Vigan when she was about to give birth to a child?

A. For the reason that we were neighbors, and when she arrived at Vigan I always saw her.

Q. Do you know if Don Vicente Romero Sy Quia had any brothers?

A. Yes, sir, I know.

Q. What are their names.

A. Sy Ty and Sy Tiap.

Q. Where are these brothers now?

A. Sy Ty died here in Manila, and Sy Tiap died at Curimao in a shipwreck.

Q. How do you know that Sy Tiap died in the wreck of a ship?

896 A. Because we both were on the same ship when it was wrecked.

Q. Do you know if Sy Tiap before his death was single or married?

A. When we were at sea he stated to me that he was married in China, and had two children in China.

Q. Do you know who were the godfather and godmother of Vicente Romero Sy Quia at the time he was baptized?

A. Yes, sir.

Q. Please give their names?

A. Don Tomas Singson was the godfather and Doña Florentina de Leon was the godmother.

Q. Did you understand my question, or not, I meant to ask you who were the godfather and godmother at the time of the baptism of Don Vicente Romero Sy Quia, not the godparents at the time of his marriage?

A. The godfather at the time he was baptized was Don Juan Romero.

Q. Where is Don Juan Romero now?

A. He is dead.

Q. How do you know that?

A. Because he lived in Vigan.

Q. Who were the godfather and godmother at the time of the marriage of Vicente Romero Sy Quia and Petronila Encarnación?

A. Don Tomas Singson and Doña Florentina de Leon.

Q. Where are Tomas Singson and Doña Florentina de Leon now?

A. They are dead.

Sr. LEGASPI: That is all.

897 Mr. BISHOP: No cross-examination.

ANICETO SINGSON, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. LEGASPI:

Q. State your name?

A. Aniceto Singson.

Q. How old are you?



A. Sixty-six years of age.

Q. Where are you from?

A. Vigan.

Q. Did you know Don Vicente Romero Sy Quia?

A. Yes, sir.

Q. How long have you known Don Vicente Romero Sy Quia?

A. Since I had sense.

Q. Was he single or married when you knew him?

A. When I knew him first he was single.

Q. Where did you know Don Vicente Romero Sy Quia?

A. At Vigan.

Q. What was your age the first time you knew Don Vicente Romero Sy Quia?

A. Six or seven years of age.

Q. Do you know if Don Vicente Romero Sy Quia got married at any time?

A. Yes, sir.

Q. With whom did he get married?

A. With Doña Petronila Encarnación.

898 Q. Where did he marry Doña Petronila Encarnación?

A. At Vigan.

Q. How do you know that?

A. Because Doña Petronila Encarnación is my cousin.

Q. How many years elapsed from the time you first knew Don Vicente Romero Sy Quia up — the time he got married to Doña Petronila Encarnación?

A. I do not know, but at the time when he got married I was about twelve or thirteen years of age.

Q. Do you know if Don Vicente Romero Sy Quia left Vigan at any time before he got married to Doña Petronila Encarnación?

A. He did not.

Q. How do you know that he did not leave Vigan at all during that period?

Mr. BISHOP: Objected to as being cross-examination of his own witness.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

A. I know because Don Vicente Romero Sy Quia visited our house very often, and was an intimate friend of my father.

Q. After Don Vicente Romero Sy Quia married Doña Petronila Encarnación, where did they reside?

A. In the same house where Don Vicente Romero Sy Quia stayed.

Q. Where is that house, at Vigan or where?

A. At Vigan.

Q. Do you know whether or not Don Vicente Romero Sy Quia, after his marriage with Doña Petronila Encarnación, at any time left Vigan?

899 A. About one year or so after their marriage they came to Manila.

Q. Where are Don Vicente Romero Sy Quia and Doña Petronila Encarnación now?

A. They are both dead.

Q. Did Don Vicente Romero Sy Quia and Doña Petronila Encarnación continue living in Manila until they died?

A. They stayed permanently in Manila.

Q. How do you know that Don Vicente Romero Sy Quia and his wife Doña Petronila Encarnación stayed permanently in Manila?

A. Because when I came to Manila I stayed in their house.

Q. Do you know whether or not Don Vicente Romero Sy Quia and Doña Petronila Encarnación had children?

A. Yes, sir, they had five children.

Q. Will you please give their names?

A. Apolinaria, Maria, Gregorio, Pedro and Juan.

Q. Where are these individuals now?

A. The two women died, and the three men are here in Manila.

Q. Where did the two women die?

A. Maria died at Vigan, and Apolinaria died here in Manila.

Q. Were they single or married when they died?

A. Apolinaria was single but Maria was married.

Q. With whom did Maria Sy Quia get married?

A. With Eustaquio Mendoza.

Q. Do you know if Maria Sy Quia had any children with Eustaquio Mendoza?

A. Yes, sir, they had two.

900 Q. Where are these children now?

A. The oldest child died, and the youngest child is here in Manila.

Q. Is the youngest child here in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the defendant Generoso Mendoza).

Q. Those brothers whom you have just mentioned as Gregorio, Pedro and Juan Sy Quia, where are they now?

A. Here in Manila.

Q. Are they here in the court room?

A. Yes, sir.

Q. Will you kindly point out Gregorio Sy Quia?

A. There he is (indicating the defendant Gregorio Sy Quia).

Q. And will you now kindly point out Pedro Sy Quia?

A. There he is (indicating the defendant Pedro Sy Quia).

Q. And will you now kindly point out Juan Sy Quia?

A. There he is (indicating the defendant Juan Sy Quia).

Q. How do you know that they are the sons of Don Vicente Romero Sy Quia with Doña Petronila Encarnación?

A. Because I am a relative of theirs.

Q. Do you know where Don Vicente Romero Sy Quia and Doña Petronila Encarnación got married?

A. At San Vicente.

Q. What is that San Vicente?

A. A *barrio* of Vigan.

Q. Who were the best men at the marriage?

A. My father and mother.

901 Q. What are their names?

A. Tomas Singson was my father and Florentina de Leon was my mother.

Q. Where are your father and mother now?

A. They are both dead.

Q. Were you present at the marriage of Don Vicente Romero Sy Quia to Doña Petronila Encarnación?

A. No, sir.

Q. How do you know that they got married?

A. I know because my parents were the best men at the marriage.

Q. Where were the children of Don Vicente Romero Sy Quia and Doña Petronila Encarnación born?

A. They were all born at Vigan.

Q. How do you know that?

A. Because when Doña Petronila Encarnación was about to give birth to a child, she always came to Vigan and gave birth to the child there.

Q. Do you know whether or not Vicente Romero Sy Quia became a Christian, or not?

A. Yes, sir, I know he was a Christian.

Q. Where was he baptized?

A. In Vigan.

Q. Who was his godfather when he was baptized?

A. Juan Romero, a Chino there.

Q. Is Juan Romero living or dead?

A. He is dead.

Q. How do you know he is dead?

A. I know because he is a relative of mine.

Sr. LEGASPI: That is all.

902 Mr. BISHOP: No cross-examination.

NORBERTA FERIL, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. LEGASPI:

Q. State your name?

A. Norberta Feril.

Q. How old are you?

A. Seventy-seven years of age.

Q. Where do you live?

A. At Vigan.

Q. Do you know Don Vicente Romero Sy Quia?

A. Yes, sir.

Q. Where did you know him?

A. At Vigan.

Q. What he single or married when you knew him first?

A. He was single.

Q. What was your age when you knew Don Vicente Romero Sy Quia first?

A. I was a girl, already grown.

Q. How old were you when you got married?

A. I was seventeen years of age when I got married.

Q. Do you know whether Don Vicente Sy Quia got married, or not?

A. I know that he got married.

Q. To whom did he get married?

A. With Doña Petronila Encarnacion.

Q. From where is this Doña Petronila Encarnacion?

903 A. From Vigan.

Q. How do you know of the marriage of Vicente Romero Sy Quia with Doña Petronila Encarnacion?

A. Because she was a relative of mine.

Q. How many years elapsed from the time you first knew Don Vicente Romero Sy Quia up to the time he got married to Doña Petronila Encarnacion?

A. About seventeen years.

Q. Who got married first, you or Don Vicente Romero Sy Quia?

A. I got married first.

Q. How long after your marriage did Don Vicente Romero Sy Quia get married?

A. One year after, more or less.

Q. Were you single or married the first time you knew Don Vicente Romero Sy Quia?

A. I was single.

Q. You have stated that the first time you knew Don Vicente Romero Sy Quia he was single?

A. Yes, sir.

Q. How many children did you have when Don Vicente Romero Sy Quia married Doña Petronila Encarnacion?

A. One.

Mr. BISHOP: We will admit two, if that will save time.

Q. Do you know if during the time you knew Don Vicente Romero Sy Quia, whether or not he lived permanently at Vigan, and never left Vigan?

A. He never left Vigan.

Q. After he got married to Petronila Encarnacion, do you  
904 know whether or not he left Vigan?

A. He did not leave Vigan.

Q. Did Don Vicente Romero Sy Quia and Doña Petronila Encarnacion up to the time of their death?

A. No, sir.

Q. Where did they reside during their lifetime?

A. At Vigan.

Q. Did they reside only at Vigan all the time up to the time of their death, did they not reside anywhere else?

A. No, sir, they came to Manila.

Q. Where did Doña Petronila Encarnación die?

A. Here in Manila.

Q. And where did Don Vicente Romero Sy Quia die?

A. Also in Manila.

Q. Do you know whether or not Don Vicente Romero Sy Quia had any children with Doña Petronila Encarnación?

A. Yes, sir.

Q. Who are they?

A. Apolinaria, Maria, Gregorio, Pedro and Juan, five only.

Q. Where are they all now?

A. Two of them died.

Q. Who died, the men or the women?

A. The two women died.

Q. Where did they die?

A. Maria died at Vigan and Apolinaria at Manila.

Q. And where are the men now?

A. They are here in Manila.

905 Q. Do you know if Apolinaria and Maria were married before they died?

A. Maria was married and the other one was single.

Q. Who married Maria?

A. Eustaquio Mendoza.

Q. Do you know if Maria Sy Quia bore any children to Eustaquio Mendoza?

A. Yes, sir.

Q. How many children did they have?

A. Two.

Q. Where are these two children now?

A. The oldest one died.

Q. And the second one?

A. He is here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you please point him out?

A. There he is (indicating the defendant Generoso Mendoza).

Q. And where are the children of Don Vicente Romero Sy Quia which he had with Doña Petronila Encarnación?

A. Here in Manila.

Q. Can you tell me if they are here in the court room now?

A. Yes, sir.

Q. Will you kindly point out Gregorio Sy Quia?

A. There he is (indicating the defendant Gregorio Sy Quia).

Q. Will you now point out Pedro Sy Quia?

A. There he is (indicating the defendant Pedro Sy Quia).

Q. Will you now please point out Juan Sy Quia?

A. There he is (indicating the defendant Juan Sy Quia).

906 Sr. LEGASPI: That is all.

Mr. BISHOP: No cross-examination.

MACARIO FAVILA, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. SUMULONG:

- Q. State your name?  
A. Macario Favila.  
Q. Where do you live?  
A. At Dagupan.  
Q. How old are you?  
A. Sixty years of age.  
Q. What is your occupation?  
A. Merchant.  
Q. Do you know Don Vicente Romero Sy Quia?  
A. Yes, sir.  
Q. For how long a time have you known him?  
A. I knew him from the year 1864.  
Q. When you knew him was he married or single?  
A. He was married.  
Q. Do you know with whom he was married?  
A. He was married with Doña Petronila Encarnación.  
Q. What relations, if any, did you have with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?  
A. From the year 1873 I had commercial transactions with both of them, until Don Vicente Romero Sy Quia died, and then with Doña Petronila Encarnación until the time of her death.  
907 Q. Where did Doña Petronila Encarnación die?  
A. Here in Manila.  
Q. Where did Don Vicente Romero Sy Quia die?  
A. Also in Manila.  
Q. Where were you when Don Vicente Romero Sy Quia died?  
A. In Manila, in his house at Calle Jolo.  
Q. Did you see Don Vicente Sy Quia dying?  
A. I was present and saw him die as a good Christian.  
Q. Were you present at all the ceremonies and at the funeral of Don Vicente Romero Sy Quia?  
A. You mean the ceremonies in the house where he died?  
Q. I refer to the ceremonies both in the house and at the church.  
A. I witnessed the ceremonies in the house and also the funeral at the church.  
Q. What sort of ceremonies took place in the house where he died?  
A. The most notable ceremony in the house where he died were the several suits, I believe seven or nine, for the deceased, which were placed on the son of Don Gregorio Sy Quia. I asked Sy Hien as well as the other Chinese who were present at that time what that was done for, and they answered me that it was a custom in China that the suits of the deceased were first put on to the oldest son, and if the oldest son was not there they were put on the oldest son of the oldest son, and if both of them were absent they were put on the wife, and as at that time the oldest son Gregorio was absent in Vigan

908 they had to take the son of Gregorio who was at school at that time, and they put on him these seven or nine suits.

Q. Was that ceremony a Chinese custom or in accordance with the custom here?

A. It was a Chinese custom, according to what I was informed by Sy Hien and other Chinos who were present at that time.

Q. Who directed that ceremony?

A. Sy Hien.

Q. Have you seen Sy Hien testifying in this case?

A. Yes, sir, I know him quite well, I have had dealings with him.

Q. Do you know Sy Yoc Leng and Sy Yic Chay?

A. No, sir.

Q. Were there many Chinos in the house of the deceased at the time of his death?

A. More than twenty Chinos were there.

Q. Who put Don Vicente Romero Sy Quia in the coffin?

A. I, Tomas Sy Quia and Generoso Mendoza, helped by employees of the undertaker.

Q. Were you helped in this work by Sy Hien or any other Chino who was present there at the time?

A. By no other Chino.

Q. Do you know in what house Don Vicente Romero Sy Quia and Doña Encarnación lived here in Manila?

A. From the year 1864 to 1870 they lived in a house at Calle Santo Cristo, and in 1873 I came to Manila and found them in a house at Calle Jaboneros, and lastly they lived in a house at Calle Jolo.

909 Q. In what house did Don Vicente Romero Sy Quia and Doña Petronila Encarnación die?

A. Don Vicente Romero Sy Quia died in the house at Calle Jolo and Doña Petronila Encarnación died in the house of Don Pedro Sy Quia at Calle Azcarraga.

Q. Did you have any intimate relations with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. Yes, sir, because I was related to Doña Petronila Encarnación by marriage, and I also had business transactions with them.

Q. Please explain the kind of relationship that existed between you and Doña Petronila Encarnación?

A. It consisted in that my wife is a niece of the second grade to Doña Petronila Encarnación.

Q. Have you ever been in the house at Calle Santo Cristo where Don Vicente Romero Sy Quia and Doña Petronila Encarnación lived?

A. I remember of having been twice in the house at Calle Santo Cristo when I was a student, and at Calle Jolo many times, because whenever I came to Manila I always lived in their house.

Q. Have you ever been in the house where Don Vicente Romero Sy Quia and Doña Petronila Encarnación lived at Calle Jaboneros?

A. Many times.

Q. You have stated that you had mercantile relations with Doña Petronila Encarnación?



A. Yes, sir.

910 Q. What sort of mercantile relations were they?

A. I was engaged in the buying of sugar and rice and some other products in Pangasinan which I sent here to Manila consigned to Doña Petronila Encarnación.

Q. In the house at Calle Santo Cristo, where you say you have been twice, did Don Vicente Romero Sy Quia and Doña Petronila Encarnación live by themselves, or with some one else?

A. They lived with their children, two daughters and three boys, but on some occasions the sons left there, but the daughters were always in the house.

Q. What are the names of these sons you have referred to?

A. The sons are Gregorio, Pedro and Juan.

Q. And what are the names of the daughters?

A. Apolinaria and Maria.

Q. Did Don Vicente Romero Sy Quia and Doña Petronila Encarnación live alone with their children in that house at Calle Santo Cristo when you came to see them there?

A. I remember that on these two occasions the only persons I saw in the house were the husband and wife and the children, two sons and two daughters, because the other son lived at Vigan.

Q. Who was that son who lived at Vigan?

A. Don Pedro Sy Quia.

Q. Did Don Vicente Romero Sy Quia and Doña Petronila Encarnación live by themselves in the house they had at Calle Jaboneros?

A. With the exception of their children, the cocheros and servants, there were no other persons there.

911 Q. How often have you been in that house at Calle Jaboneros, more or less?

A. Three or four times a year, from the — 1874 I came to Manila three or four times every year, and I always stopped at their house.

Q. Have you seen at any time when you went there at that house at Calle Jaboneros, any Chinese living with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. I saw no Chinese there.

Q. With what frequency have you been in their house at Calle Jolo?

A. I cannot state exactly how many times, but it was many times as it is very easy to come from Dagupan to Manila and I used to come to Manila very often.

Q. On these occasions that you have been in the house at Calle Jolo, have you seen any Chinese living with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. I have seen no Chinese living there.

Q. Where is now the daughter by the name of Apolinaria?

A. She died.

Q. Was she single or married when she died?

A. She was single.

Q. Who died first, Don Vicente Romero Sy Quia or his daughter Apolinaria?

A. Don Vicente Romero Sy Quia died first.

Q. Who died first Doña Petronila Encarnación or Apolinaria?

A. Apolinaria died first.

Q. Where is now the daughter of Sy Quia named Maria?

A. She is also dead.

912 Q. Did she die single or married?

A. Married.

Q. With whom was she married?

A. With Eustaquio Mendoza.

Q. Did they have any children?

A. Yes, sir, they had two children, one of whom died when about a year old, and the second one is still living.

Q. What is the name of the one who is living?

A. Generoso Mendoza.

Q. Do you know personally Generoso Mendoza?

A. Yes, sir.

Q. Where is he now?

A. In Manila.

Q. Is he here in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is (indicating the defendant Generoso Mendoza).

Q. Do you know also Gregorio, Pedro and Juan Sy Quia?

A. Yes, sir.

Q. Are they here in the court room?

A. Yes, sir.

Q. Will you kindly point out Gregorio Sy Quia?

A. There he is (indicating the defendant Gregorio Sy Quia).

Q. Will you now kindly point out Pedro Sy Quia?

A. There he is (indicating the defendant Pedro Sy Quia).

Q. Will you now kindly point out Juan Sy Quia?

A. There he is (indicating the defendant Juan Sy Quia).

913 Q. You have stated that you had very intimate relations with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. Yes, sir.

Q. Did Don Vicente Romero Sy Quia at any time speak to you of any other children he had besides those that he had in Manila?

A. Never.

Q. With whom did you have these commercial transactions, with both of them or only with one of them?

A. The business transactions were only with Doña Petronila Encarnación.

Q. Who of the two of them directed all the marriage business?

A. Doña Petronila Encarnación.

Q. Do you know why it was that Doña Encarnación was the one who conducted the matrimonial business?

Mr. BISHOP: Objected to as calling for an opinion and conclusion of the witness.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

A. In regard to my mercantile transactions with her, my letters were addressed to her and she answered my letters, and in regard to the business of Don Vicente Romero Sy Quia in Ilocos, I know that he bought goods at Ilocos under the instructions and orders of Doña Petronila Encarnación.

Q. Where did you know for the first time Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. When I was a young boy at Vigan, because I am a native of Vigan. I heard many times the name of Chino Sy Quia, but  
914 I did not know him personally. As to Doña Petronila Encarnación I knew her when I was a young boy in Vigan, because she was the daughter of one of the chief men there.

Q. Where did you know for the first time, personally, Don Vicente Romero Sy Quia?

A. Personally here in Manila.

Q. You have stated that you are a native of Vigan?

A. Yes, sir.

Q. Up to what date did you reside at Vigan?

A. After the year 1864 I came to Manila to stay, and went back to Vigan in the year 1870. Then in 1874 I moved to the province of Pangasinan, where I am residing up to the present time.

Q. Do you know where the children of Don Vicente Romero Sy Quia and Doña Petronila Encarnación were born?

A. According to my information they were all born at Vigan.

Q. From the first time you knew personally Don Vicente Romero Sy Quia, after being married to Doña Petronila Encarnación, up to the time they both died, where were they residing?

A. In Manila.

Q. Do you know if, during the time you had these business relations with them, they changed their residence from Manila?

A. Not to my knowledge.

Sr. SUMULONG: That is all.

Cross-examination by Mr. BISHOP:

Q. The Sy Hien to whom you have referred in your testimony was the younger brother of Don Vicente Romero Sy Quia, was he not?

915 A. I do not know whether he was the youngest, but it was said that he was a brother of Don Vicente Romero Sy Quia.

Q. He is the same man you saw testifying in this case, is he not?

A. Yes, sir.

Q. And he was much younger than Don Vicente Romero Sy Quia?

A. Much younger.

Q. And the Sy Ty you have referred to was a brother of Don Vicente Romero Sy Quia, was he not?

A. I did not make any mention of Sy Ty.

Q. Don Vicente Romero Sy Quia had a brother by the name of Sy Ty, had he not?

A. It was said that Sy Ty was his brother.

Q. And this brother Sy Ty is buried in the La Loma cemetery in Manila, is he not?

Sr. SUMULONG: Objected to on the ground that it is not proper cross-examination.

The COURT: It is not proper cross-examination.

Q. You have had large financial dealings with the Sy Quia family for many years, have you not?

A. Yes, sir.

Q. And you still have, have you not?

A. I have mercantile transactions with Don Pedro Sy Quia, who is my consignee in Manila now.

Q. And your business relations with him at this time are very large, are they not?

A. It is limited, but I send him goods from the province to sell, which he sells after deducting a certain commission.

Mr. BISHOP: That is all.

916 RAMON RODRIGUEZ, called in behalf of the defendants being duly sworn, testified as follows:

Direct examination by Sr. ROSADO:

Q. State your name?

A. Ramon Rodriguez.

Q. How old are you?

A. Sixty-five years of age.

Q. Of what town are you a native?

A. A native of Vigan.

Q. Where do you live now?

A. At No. 333 Calle Jolo.

Q. Where is Calle Jolo?

A. At Binondo.

Q. In the city of Manila, or somewhere else?

A. District of Binondo, city of Manila.

Q. How old were you when you left Vigan, of which town you are a native?

A. I left Vigan at the age of fifteen.

Q. State whether or not you know a Chinaman by the name of Vicente Romero Sy Quia?

A. Yes, sir.

Q. Where did you know him?

A. At Vigan.

Q. Since when did you know him?

A. Since I had sense.

Q. When you knew Vicente Romero Sy Quia in Vigan, was he single or married?

917 A. He was single.

Q. Do you know if Don Vicente Romero Sy Quia married at any time at Vigan?

A. I remember very well when he married Doña Petronila Encarnación.

Q. Did you know Doña Petronila Encarnación?

A. Yes, sir.

Q. What pueblo is Doña Petronila Encarnación a native of?

A. A native of Vigan.

Q. Do you know whether or not any children were born of the marriage of Don Vicente Romero Sy Quia with Doña Petronila Encarnación?

A. Yes, sir.

Mr. BISHOP: The marriage is admitted, but we are denying that there was a legal marriage, and one question and answer will cover all that. I would make the admission, but we cannot agree upon the form, that is they want me to admit a legal conclusion instead of certain facts. I have tried very hard outside of court to settle this point, and am willing to say that we will offer no testimony on that line—

The COURT: There is no use talking in that way. Proceed with the examination.

Q. Will you kindly mention the names of the children?

A. Apolinaria, Maria and Gregorio, these are the three I knew before I left Vigan.

Q. Do you know or not of any more children of Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. After my return from Singapore I knew Pedro and Juan.

918 Q. How many years elapsed from the first time you knew Don Vicente Romero Sy Quia up to the time he got married?

A. About four years.

Q. Do you know where the children of Don Vicente Romero Sy Quia and Doña Petronila Encarnación were born?

A. They were born at Vigan.

Q. Could you point out to me Gregorio Sy Quia if he is here in the court room?

A. There he is (indicating the defendant Gregorio Sy Quia).

Q. Would you be able to point out Pedro Sy Quia, if he is here in the court room?

A. There he is (indicating the defendant Pedro Sy Quia).

Q. Could you point out Juan Sy Quia if he is here in the court room?

A. There he is (indicating the defendant Juan Sy Quia).

Q. Do you know if Apolinaria Sy Quia died single or married?

A. Single.

Q. Do you know if Maria Sy Quia died single or married?

A. Married.

Q. Do you know with whom Maria Sy Quia got married?

A. Yes, sir, with a clerk in the court of Quiapo, of the name of Eustaquio Mendoza.

Q. Do you know the son of Maria Sy Quia?

A. Yes, sir.

Q. Is he in the court room now?

A. Yes, sir, there he is (indicating the defendant Generoso Mendoza).

919 Q. Did you have any friendly relations or commercial relations or otherwise with Don Vicente Romero Sy Quia and Doña Petronila Encarnación?

A. The first time I knew Don Vicente Romero Sy Quia he was the broker of my father, he is the one who bought the indigo.

Q. Did you not have any business transactions with Doña Petronila Encarnación?

A. My brother Pepe, yes, sir.

Q. During those four years before Don Vicente Romero Sy Quia was married to Doña Petronila Encarnación, do you know whether or not he left Vigan?

A. He did not leave Vigan.

Q. How do you know that?

A. Because he used to go very often to the house of my father.

Q. Where did Don Vicente Romero Sy Quia reside after his marriage?

A. At Vigan.

Q. Did he not leave Vigan?

A. No, sir.

Q. After his marriage did he not leave Vigan?

A. I left Vigan in the year 1856 or 1857, and at that time I remember that Don Vicente Romero Sy Quia and his wife came to Manila, and afterwards they returned to Vigan.

Q. Do you know where they lived in Manila, Don Vicente Romero Sy Quia and his wife Petronila Encarnación?

A. On my return from Singapore—

Q. My question is whether or not you know whether Don Vicente Romero Sy Quia and Doña Petronila Encarnación lived here in Manila?

920 A. Yes, sir, at Calle Santo Cristo.

Q. Did they remain there all the time, or did they move?

A. They moved.

Q. Do you know where they moved to?

A. To calle Jaboneros.

Q. Do you know whether or not they continued living there, or moved to somewhere else?

A. They lived there some years and then they moved to Calle Jolo in a new house they had constructed.

Q. Did you have dealings with Doña Petronila Encarnación and Don Vicente Romero Sy Quia?

A. Yes, sir.

Q. Did you at any time see any other Chinos living in that house besides Don Vicente Romero Sy Quia?

A. No, sir.

Sr. ROSADO: That is all.

## Cross-examination by Mr. BISHOP:

Q. Vicente Romero Sy Quia was about twenty years older than you, was he not?

A. I do not know exactly how much older than me he was.

Q. When you were a boy, he was a young man, was he not?

A. Yes, sir.

Q. How old was Vicente Romero Sy Quia when he got married, as you state in Vigan?

A. I was ten years old when he got married, in the year 1853.

Mr. BISHOP: That is all.

## 921 QUESTIONS BY THE COURT.

Q. You state that Vicente Romero Sy Quia married in the year 1853?

A. He became a Christian in 1852.

Q. And married in the year 1853?

A. Yes, sir.

The hearing was then suspended until January 28th, 1907, at 8 a. m.

JANUARY 28TH, 1907.

Pursuant to adjournment, the case was called this a. m., with the same appearances.

ANA QUANG SU, called in behalf of the defendants, being duly sworn, testified as follows:

## Direct examination by Sr. SUMULONG:

Q. State your name?

A. Ana Quang Su.

Q. Where do you live?

A. At Calle Jolo, Binondo.

Q. What number?

A. I do not remember the number.

Q. How old are you?

A. Forty-nine years of age.

Q. What is your occupation?

A. That of my sex, in the house.

Q. Where were you born?

A. In China.

922 Q. In what pueblo of China were you born?

A. I was born at Chuang Su, and brought up at Amoy.

Q. At what age did you come to the Philippine Islands, to Manila?

A. At sixteen years of age.

Q. In what house did you live the first time you came to the Philippine Islands, to Manila?

A. In the house of Sy Ty.

Q. Where was the house of Sy Ty situated at that time?



A. At the foot of the bridge of Binondo, in the direction of Calle Rosario.

Q. How long did you live in that house?

A. Seventeen or eighteen years.

Q. What relationship have you got with Sy Ty?

A. He was my husband.

Q. Do you know a woman named Yap Puan Niu?

A. I did.

Q. Where did you know her?

A. When they came to the Philippine Islands they lived in our house.

Q. Did Yap Puan Niu come to Manila at any time?

A. Yes, sir.

Q. How many times did Yap Puan Niu come to Manila?

A. Twice.

Q. What was your age approximately the first time Yap Puan Niu came to the Philippine Islands?

A. The first time when Yap Puan Niu came to Manila I had two children already, and my age must have been between twenty-two and twenty-four years, something like that.

923 Q. How long did Yap Puan Niu stay in Manila the first time she came here?

A. To the best of my recollection she stayed here about five or six months at the utmost.

Q. Did you know a man by the name of Vicente Romero Sy Quia?

Q. I did.

Q. Did you know a woman by the name of Petronila Encarnación?

A. She was my godmother at confirmation.

Q. What relationship existed between Doña Petronila Encarnación and Don Vicente Romero Sy Quia?

A. Doña Petronila Encarnación was the wife of Don Vicente Romero Sy Quia.

Q. Where were Doña Petronila Encarnación and Don Vicente Romero Sy Quia living when Yap Puan Niu came to Manila the first time?

A. According to my recollection they were living at Calle San Fernando, the house at Calle Jolo was not built yet.

Q. Were Doña Petronila Encarnación and Don Vicente Romero Sy Quia living together with Sy Ty, or were they living in different house- altogether from Sy Ty?

A. In a separate house.

Q. How long did Yap Puan Niu stay in Manila the second time she came here?

A. To my recollection about four or five months, something like that, she did not stay very long here that time, and after that she went back to China.

Q. In whose house did she stay here in Manila the second time she came?

A. In our house.

924 Q. To whom did that house belong where she stayed here the second time?

A. It was the house of Sy Ty.

Q. During the five or six months that Yap Puan Niu stayed here in Manila in the house of Sy Ty the first time, do you know whether or not Don Vicente Romero Sy Quia visited her in the house of Sy Ty, while she was there?

A. No, sir, he did not.

Q. How do you know that fact, that Don Vicente Romero Sy Quia did not visit Yap Puan Niu at any time in the house of Sy Ty the first time she came to Manila?

A. Why should I not know if he visited her, I was always at home, I took care of the house and must have seen.

Q. During the time that Yap Puan Niu remained here in Manila the first time she came out from China, and stayed in the house of Sy Ty, do you know whether she stayed constantly in the house, or did she go out?

A. She was all the time in the house.

Q. And during that time did you used to go out from the house, or did you also remain all the time in the house?

A. It is the habit among Chinese women never to go out from the house, and therefore I was always in the house.

Q. If Don Vicente Romero Sy Quia had visited at any time Yap Puan Niu the first time she came to the Philippine Islands and stayed at your house, would you have known of that fact?

Mr. O'BRIEN: Objected to as incompetent, and not calling for a fact.

925 The COURT: The question is admissible, and is in the nature of establishing the fact.

A. I should have known it because I always stayed in the house, I never left the house.

Q. Do you know whether or not during the four or five months than Yap Puan Niu resided in the house of Sy Ty the second time she came to the Philippine Islands, Don Vicente Romero Sy Quia paid any visit to her or not?

A. No, sir, he did not.

Q. If Don Vicente Romero Sy Quia had visited Yap Puan Niu during that time, the second time she came to the Philippine Islands, would you have known of that fact?

A. Most undoubtedly, it would have been impossible for me not to have known of that fact if he had called at the house, because I was always in the house and would have seen it.

Q. When Yap Puan Niu came here the second time did she live in the same room with you, or in a separate room?

A. In a different room altogether, but very close to my room.

Q. With whom did Yap Puan Niu come to the Philippine Islands the first time she came out?

A. I believe with the head man of the passengers, but I am not sure.

Q. With whom did she come out to the Philippine Islands the second time?

A. With Sy Yoc Leng.

Q. Do you know who paid the fare of Yap Puan Niu the first time she came to the Philippine Islands, as well as the fare for her return to China?

926 A. Sy Ty paid.

Q. Do you know who paid the fare of Yap Puan Niu the second time she came to Manila, and also her return fare to China?

A. Sy Ty also paid.

Q. Who supported Yap Puan Niu the two times she came here to Manila, during her stay here?

A. Sy Ty did.

Q. Do you know Sy Yoc Chay?

A. I do.

Q. How did you become acquainted with Sy Yoc Chay?

A. I saw him in the house.

Q. Who came first to Manila: Sy Yoc Leng or Sy Yoc Chay?

A. Sy Yoc Leng came first.

Q. What sort of work did Sy Yoc Leng do the first few days after his arrival here in Manila?

A. He was studying.

Q. Where was he studying?

A. In the house, we had a teacher.

Q. Whose house do you refer to?

A. The house of Sy Ty.

Q. How long was Sy Yoc Leng studying in the house of Sy Ty?

A. I could not fix the exact period of time he was studying, but I know when my husband died he ceased studying.

Q. Do you know whether or not Sy Yoc Leng besides studying in the house of Sy Ty went to a private school elsewhere with other teachers?

A. No, sir, he was always in the house.

Q. Who paid for the schooling of Sy Yoc Leng?

A. Sy Ty.

927 Q. Will you kindly state if Sy Yoc Leng is in the court room at the present time?

A. He is here.

Q. Will you kindly point him out.

A. There he is (indicating the plaintiff Sy Yoc Leng).

Q. Did Sy Yoc Chay also study upon his arrival here in Manila?

A. No, sir.

Q. When Sy Yoc Chay came to Manila was Sy Ty still living?

A. I could not tell you, as far as I remember I believe he was dead, but I cannot tell you whether he was living or not when Sy Yoc Chay arrived here.

Q. What kind of work did Sy Yoc Chay do the first few days after his arrival in Manila?

A. He was a kind of messenger in the house.

Q. During the first few days or months after the arrival of Sy Yoc Chay here in Manila, where was he residing?

A. I believe he was only a few days in the house, and afterwards went to Malolos.

Q. What sort of work did Sy Yoc Leng devote himself to after the death of Sy Ty?

A. Nothing, he remained there in the house.

Q. In whose house?

A. The house of Sy Ty.

Q. Who occupied the house of Sy Ty after his death?

A. Sy Hien.

Q. You have stated that a few days after the arrival here of Sy Yoc Chay in Manila he went to Malolos?

A. Yes, sir.

928 Q. How long did he remain there?

A. I could not tell you how long.

Q. When did he serve here in Manila as a messenger, as you say, in your house or the house of Sy Ty: was it before his going to Malolos, or afterwards?

A. Before his going to Malolos.

Sr. SUMULONG: That is all.

Cross-examination by Mr. BISHOP:

Q. Where do you live now?

A. At Calle Jolo, Binondo, very near the bridge.

Q. In whose house?

A. The house for which I pay rent.

Q. Who else lives in that house?

A. Only we.

Q. Who do you mean by "we"?

A. My husband and children.

Q. What is the name of your husband?

A. Federico Tan Sioco.

Q. You were about sixteen years of age when you first came to Manila?

A. Yes, sir, about sixteen years of age.

Q. And about how old was Yap Puan Niu when she came to Manila?

A. I did not ask her age, and I cannot tell you.

Q. Was she an old woman?

A. She was not very young and she was not very old, she was of middle age.

Q. At the time that Yap Puan Niu was in Manila what other persons lived in the house of Sy Ty?

929 A. There were some Chinese and the clerks and the wife of Sy Ty: it is a Chinese custom that there are two wives.

Q. And that other wife is now dead?

A. Yes, sir, she is dead.

Q. Did not Sy Hien live in the same house, also?

A. Yes, sir.

Q. What relationship exists between Sy Hien, Sy Ty and Sy Quia ?

A. It is stated that they were brothers, but of different fathers and mothers.

Q. Did not Sy Yoc Leng study Chinese in the house of Sy Ty for several years?

A. Yes, sir.

Q. And then after he became a young man did he not go to a private school for a little while just to study Spanish?

A. I do not know about that.

Mr. BISHOP: That is all.

JUAN SANCHEZ, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. SUMULONG:

Q. State your name?

A. Juan Sanchez.

Q. Where do you live?

A. At the college of San Juan de Letran.

Q. What is your age?

A. I am now overtly thirty-three years of age.

Q. What is your profession?

930 A. Padre.

Q. Have you been at any time in China?

A. Yes, sir, I have been more or less three years in Amoy.

Q. Will you do us the favor to tell us to what work you devoted yourself during these t-ree years you stayed in China?

A. I devoted myself to the conversion of Pagans.

Q. As a priest do you perform at the present time any duties that have connection with the Chinese here in Manila?

A. Yes, sir, I am appointed by the Bishop as minister of the Chinese in the Philippine Islands.

Q. Do you have a thorough knowledge of the dialect of Amoy?

A. I do not know it thoroughly, I have forgotten much of it, but still I can talk it.

Q. Are you learned in canonical law?

A. Yes, sir, as far as the study of the course of priesthood.

Q. Can you tell us what course the Church pursued, and which they pursue at the present time, for the purpose of finding out whether or not a man is single or married: I mean of a Chinese Pagan who afterwards became a Christian and then contracted matrimony with a Filipino?

Mr. BISHOP: Objected to for the reason that it is incompetent it not appearing that the witness is qualified to testify, and furthermore for the reason that the canonical laws have no application in this matter.

The COURT: Objection sustained as not the best evidence.

Sr. SUMULONG: I withdraw the question.

Q. Can you tell us if the proceedings followed by the Catholic Church for the investigation of the civil condition  
931 of a Chinese who has been a Pagan, and who has been converted to a Christian, and who desires to marry a Filipina, are formulated in writing, as laws or not?

A. Yes, sir, it is a general proceeding of the Church, and is in writing.

Sr. SUMULONG: I ask leave to withdraw this witness and present him later on when we can ask him to identify certain books containing certain canonical laws which bear on the case at issue.

The COURT: You may do so, you may call the witness later on when you have the books you refer to.

MANUEL DE YRIARTE, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. ROSADO:

Q. State your name?

A. Manuel de Yriarte.

Q. How old are you?

A. Forty-two years of age.

Q. What is your official position?

A. Chief of the Bureau of Archives.

Q. Archives of what?

A. Of the Government.

Q. Since when are you performing those duties as Chief of the Bureau of Archives?

A. From the year 1899.

Q. Do you remember having received any request from any one to look for an expediente of Vicente Romero Sy Quia requesting permission from the Government to get married to  
932 Doña Petronila Encarnación?

A. Yes, sir.

Q. Do you remember who made the request asking you to look for such a document?

A. You, Sr. Rosado, you, yourself.

Q. Do you remember when I made the request, whether or not you found such a document?

A. I remember your coming to my office some four or five times about six months ago.

Q. Did you find the document that I asked you to look for at that time?

A. No, sir.

Q. Do you remember whether or not I gave you the year when that request was made to the Government asking for this permission to get married: did I give you the date so as to enable you to make the search?

A. Yes, sir, and I believe it was the year 1852 or 1853.

Q. In what particular branch of the archives ought such a docu-

ment to have been deposited, and where should it have been from that time until the time you took charge of the Bureau of Archives?

A. The Archives of the General Government.

Q. Do you know if all the documents which were kept in the archives of the Government during the Spanish Sovereignty were transferred to your Bureau, or have some of them disappeared?

933 A. A good many of them were lost.

Q. Do you know what caused the loss of these documents from the archives of the General Government?

A. Because the office of the Secretary of the General Government as well as many other offices, were occupied by the troops, and many of them did not know that these documents were of importance and should be kept, and as they needed room many of the documents were thrown into the river?

Q. What river.

A. The Pasig.

Q. Have you brought along with you the protocol of the notary public Don Vicente Santos, of the year 1887?

A. I have.

Q. Kindly show it to me?

A. Here it is (handing to Counsel).

Sr. ROSADO: I desire to offer in evidence this document, which is marked for identification Exhibit D1, or a copy of it, in which Don Vicente Romero Sy Quia conferred authority to his wife Doña Petronila Encarnación and to his son Don Pedro Sy Quia by power of attorney.

Mr. BISHOP: To which we object for the reason that it is incompetent and immaterial. We make the objection because it appears to have been a matter of the year 1887, and we do not see wherein it is material, apparently it is in reference to a business transaction.

The COURT: Objection overruled, it may be admitted for the purpose of showing the declaration of Vicente Romero Sy Quia that Petronila Encarnación was his wife and Pedro Sy Quia his son at that time.

934 Mr. BISHOP: Exception.

Sr. ROSADO: I will offer a certified copy later on.

The COURT: You may do so in lieu of the original, and it will be marked Exhibit D1.

Sr. ROSADO: I will now ask that Sr. Yriarte be instructed to bring here an expediente showing the request of a Chinese Christian to obtain permission to marry a Filipina, in order that your Honor may see how such things were done formerly.

The COURT: I do not think it is of any importance to me what was done at that time.

Sr. ROSADO: We also offer in evidence as an exhibit of the defendants a copy of a power of attorney authorized by Don Vicente Romero Sy Quia in favor of his son Dor Gregorio Sy Quia, to prove his position as a legitimate son. This is a certified copy and we ask that it be marked Exhibit D2.

The COURT: The offer is only for the purpose of showing that



Gregorio Sy Quia was the legitimate son of Vicente Romero Sy Quia.

Mr. BISHOP: Objected to as incompetent and immaterial.

The COURT: Objection overruled, it is the only way you can prove it.

Mr. BISHOP: Exception.

Sr. ROSADO: We now offer in evidence a copy of a document purporting to be a protocol of the notary public Don Eustaquio Villablanca de Mendoza, dated November 17th, 1885, for the purpose of showing that at the time of its execution Don Vicente Romero Sy Quia acknowledged Petronila Encarnación as his wife, and ask that it be marked Exhibit D3.

935 Mr. BISHOP: Objected to as incompetent.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

The COURT: It is agreed between the parties that Don Vicente Romero Sy Quia died in Manila on the 9th day of January, 1894.

Sr. ROSADO: We also desire to offer in evidence an agreement between the attorneys for plaintiffs and defendants, and which is already a part of the record in this case, and ask that it be marked Exhibit D4.

The COURT: It may be received.

Sr. ROSADO: We also offer in evidence the depositions taken at Vigan, and ask that they be marked collectively Exhibit D5, and will read them into the record if necessary.

The COURT: It is not necessary, I will read them, and pass on any objections that may have been made, granting an exception in each case to the party ruled against.

Mr. BISHOP: There is no objection to the admission of these depositions taken at Vigan, except that if counsel for the defendants will take a little time they might exclude a good part of them, as our stipulation covers a large part of it, and thus avoid repetition.

The COURT: They may be received as part of the record.

PEDRO ANTONIO SY QUIA, called in his own behalf, being duly sworn, testified as follows:

Direct examination by Sr. ROSADO:

Q. State your name?

A. Pedro Antonio Sy Quia.

936 Q. You are one of the defendants in this case?

A. Yes, sir.

Q. Where were you born?

A. In the town of Vigan.

Q. What nationality have you got?

A. I am a Filipino.

Q. What is your age?

A. Forty-eight years of age.

Q. Where did you live since you had sense?

A. From the time I was born up to twelve years of age at Ilocos Sur, and from twelve years of age up to the present time here in Manila, in Binondo.

Q. Do you know Don Vicente Romero Sy Quia?

A. He is my father.

Q. Do you know Doña Petronila Encarnación?

A. She is my mother.

Q. Where did your father Don Vicente Romero Sy Quia and your mother Doña Petronila Encarnación live here in Manila from the time you came here up to the time of their death?

A. From the year 1872, when I came to Manila, they lived first at No. 5 Calle Jaboneros until the year 1883 or 1884, when they moved to Calle Jolo.

Q. When did your mother Doña Petronila Encarnación die?

A. On the 6th day of June, 1906.

Q. Do you know the place where your father Don Vicente Romero Sy Quia is buried?

A. Yes, I know, he is buried at La Loma.

Q. Do you know and have you seen the tombstone which was erected to him?

937 A. I know it because I am the one who ordered the making of it.

Q. I will show you now Exhibit AB., and will ask you to kindly state to the Court what is the meaning of the word "Evaristo" which appears at the head of this exhibit?

A. It is the name of one of the sons of my youngest brother Juan.

Q. What is the meaning of the word "Ricardo" which also appears at the head of this exhibit?

A. It is the name of one of the sons of my sister Maria, who died.

Q. What is the meaning of the word "Vicente" that appears on the tombstone of your father, and which is found on this same exhibit?

A. It is the name of one of the sons of my brother Gregorio.

Q. What is the meaning of this other word "Vicente" which also appears on the tombstone of your father, and also on this same exhibit?

A. That is the name of one of my sons by my first wife, who died when he was eight months old.

Q. Do you know who ordered the making of that tombstone of your father?

A. I am the one who contracted for the making of that tombstone of my father.

Q. Who paid the expenses for the construction of that tombstone of your father's?

A. My mother.

Q. Do you know what is the meaning of these words here on Exhibit AB. "De su desconsalada Esposa", which appear on the tombstone of your father?

938 A. That refers to my mother.

Q. Do you know the meaning of these other words that appear on Exhibit AB., and which are also on the tombstone of your father: "Hijos, Nietos, Hermanos y Sobrinos"?

A. We are the children, and the grandchildren are mine and the children of my brother Gregorio and my brother Juan.

Q. What brothers and sisters have you got?

A. Apolinaria, Maria, Gregorio and Juan.

Q. To what brothers do the word "Hermanos" on the tombstone of your deceased father refer?

A. I believe to Chino Sy Hien.

Q. And to what nephews do the word "Sobrinos" refer which appears on the same tombstone?

A. To the children of Sy Ty.

Q. Where were you when your father Don Vicente Romero Sy Quia died?

A. I was in the same house where he died.

Q. Do you know whether or not, in accordance with Chinese custom, any ceremonies were carried on at the funeral of your father in the house where he died?

A. Yes, sir, there was a ceremony which is not against the Catholic religion, which is the putting on of nine suits, which were put first on the son of my brother Gregorio before being put on the deceased.

Q. Who ordered the putting on of these nine suits on the eldest son of your brother Gregorio?

A. Chino Sy Hien.

Q. What is the reason these nine suits were put on the eldest son of your brother Gregorio?

939 A. Because according to Sy Hien the eldest male child of Vicente Romero Sy Quia ought to put on these nine suits, and as my brother Gregorio was not here, they looked for his eldest son to put them on, that is the eldest grandson of my father.

Q. Do you know Sy Yoc Chay and Sy Yoc Leng?

A. I know them by sight.

Q. Do you know whether or not at the time this ceremony took place which you have referred to in the house of your father, Sy Yoc Chay and Sy Yoc Leng were present?

A. They might have been there together with other Chinos, because on that occasion many Chinos were there.

Q. Was Sy Hien there?

A. Yes, sir.

Q. After these nine suits were put on to the eldest son of Gregorio Sy Quia, on whom were they put?

A. On the deceased.

Q. Did some Chinos live at any time with your father and mother.

A. Never.

Q. Did Sy Yoc Chay and Sy Yoc Leng ever live there?

A. Not even once.

Q. Do you know if your father and mother treated Sy Yoc Chay and Sy Yoc Leng as relatives?

A. They did not treat them as relatives because they never lived in the house in any manner.

Q. Do you know if your father and mother at any time supported the two plaintiffs in this case who are now here?

A. Not even once.

Q. Do you know if your father and mother ever helped Sy Yoc Chay and Sy Yoc Leng in any way?

A. Never.

Q. If your father and mother had helped them in any way would you have become acquainted with that fact?

A. I would have known it because we never had any money in the bank, we always had cash and silver in the house, all kinds of money. We only commenced to have money in the bank after the fire took place on Calle Rosario, that is the time we put all the money in the bank.

Q. Do you know Sy Jui Niu?

A. No, sir, I do not know her, the first time I heard that name is during the trial of this case.

Q. Do you know Sy Chua Niu?

A. I do not know her either, I never heard of her before the trial of this case.

Q. Do you know Yap Puan Niu?

A. No, sir.

Q. Do you know Yap Bong Niu?

A. No, sir.

Q. Do you know Sy Bi Bo?

A. No, sir.

Q. Do you know Sy Bi Git?

A. No, sir.

Q. Did you ever hear your father and mother mention the names of Sy Jui Niu, Sy Chua Niu, Yap Bong Niu, Yap Puan Niu, Sy Bi Bo or Sy Bi Git?

A. Not even once.

Q. Under what conditions did you become acquainted with Sy Yoc Chay and Sy Yoc Leng?

941 A. Owing to the fact that they used to bring some packages from the steamers San Joaquin and Gloria sent by my brother Gregorio from Ilocos, and these packages were taken by them to our house.

Q. Who used to receive these packages that came from your brother Gregorio and were sent to your father in your house.

A. The first ones who met them in the house were the muchachos down stairs, and they informed them, and then the muchachos informed us up stairs.

Q. How is it that they were the bearers of some packages that came from Vigan and were sent to your father and mother?

A. Because they were delivered to the captain, and the captain slept in the house of Sy Ty.

Q. What did Sy Yoc Chay and Sy Yoc Leng have to do with Sy Ty?

A. They lived in the house of Sy Ty as employees of Sy Ty.

Q. Do you know whether or not after your father's marriage with your mother he at any time left Manila and went to China?

A. Only by hearsay I know my father went once to China on account of his having become bondsmen for some person, and dur-

ing his absence my mother tried to settle the affair here and finally paid, because at that time any bondsman that could not pay was subject to imprisonment.

Q. Do you know for what period of time your father was absent on that occasion?

A. More or less, two or three months, I believe.

942 Q. Who told you of this?

A. My mother.

Q. How many children did you father and mother, Don Vicente Romero Sy Quia and Doña Petronila Encarnación, have besides you?

A. Four, we are five in all.

Q. Where is your sister Apolinaria now?

A. She is dead.

Q. Do you know who died first, your father or Apolinaria?

A. My father died first, because he died in 1894, and my sister Apolinaria died in the year 1900.

Q. Do you know whether your sister Apolinaria died single or married?

A. She was single when she died.

Q. Where is your sister Maria now?

A. She is dead.

Q. Do you know who died first, Maria or your father?

A. My sister Maria died first.

Q. When your sister Maria died was she single or married?

A. Married.

Q. With whom did you sister Maria get married?

A. With Eustaquio Mendoza.

Q. Do you know whether as the result of that marriage your sister Maria had children?

A. Yes, sir, they had two children, one of whom died, and the other is still alive.

Q. What is the name of the child who is still alive?

A. Generoso.

943 Q. What is the name of the child who died?

A. Ricardo.

Q. Who supported you and gave you your education from the time you were born up to the time you were able to earn your own living?

A. My parents.

Q. Who entered into the possession of the properties of your father, Vicente Romero Sy Quia, from the time of his death?

A. My mother and we, the sons.

A. Was your mother, or were your brothers, or yourself, at any time disturbed in any way in the peaceful possession of your father's real estate, or property?

A. Never, not even once.

Q. Do you know if your father ever sent money to China?

A. Never.

Q. Did you always live with your parents?

A. From the year 1872, I always lived with my father and mother.

Q. Would you have known it if your father had sent money to China?

A. I would have known it undoubtedly, because I was a kind of cashier of theirs.

Q. Do you know if your mother ever gave money to Sy Yoc Leng?

A. Never.

Q. Do you know if your mother ever gave money to Sy Hien for the expenses of Sy Yoc Leng?

A. No, sir, never.

Sr. ROSADO: That is all.

944 Cross-examination by Mr. O'BRIEN:

Q. Referring to Exhibit AB., what do the words "Natural de Amtao, provincia de Emuy" signify?

A. The deceased.

Q. Vicente Romero Sy Quia?

A. Yes, sir.

Q. During the lifetime of Vicente Romero Sy Quia in Manila, did he dress as a Chino or as a Filipino?

A. As a Chino, I mean to say his coat was in the Chinese style, but his pantaloons were just like a Filipino's, did not bag so much as those of the Chinos do.

Q. At the time the suits you have mentioned were placed on the son of Gregorio, was Sy Hien present?

A. He was present because he was the master of the ceremonies.

Q. He sent Sy Yoc Leng out of the room to get some articles at that time, did he not?

A. I do not remember of that detail, but it might be so.

Q. He also sent Sy Yoc Chay out of the room for some errand, did he not?

A. I do not think they were sent anywhere, or that they were in the room where my father was, because that room was a small room and a dark room and could not hold many persons.

Q. Do you recollect that Sy Yoc Leng was engaged in a mercantile business at one time with the son of Sy Ty?

A. No, I never knew of that business.

Q. As a matter of fact were they not engaged in mercantile business on this same boat from which they carried merchandise to and from your father and Gregorio Sy Quia at Vigan?

A. No, sir, they were not partners.

Q. As a matter of fact did not your mother give Sy Yoc Leng four thousand pesos to go into that business as capital?

A. No, sir.

Q. Do not the books of Sy Ty show that Sy Yoc Leng went in as a partner with the son of Sy Ty, and got four thousand pesos from your mother Petronila Encarnación, after your father Vicente Romero Sy Quia died?

Sr. SUMULONG: Objected to, the best evidence is the books themselves.

The COURT: Objection overruled, it is only an incident.

Sr. SUMULONG: Exception.

A. That could not appear in the books of Sy Ty, because Sy Ty died before my father, and those books could not have existed, I have not seen these books.

Q. Who took charge of the business of Sy Ty after his death and continued to operate the same?

A. Sy Hien.

Q. He had his office located in the house of Sy Ty, had he not?

A. Yes, sir.

Q. And your mother also on another occasion gave Sy Yoc Leng two thousand pesos, did she not?

A. No, sir, that is not true.

Q. When your father returned to China on business, as you mentioned, to what place in China did he go?

A. I could not tell you where because I only knew it by hearsay, I was very small.

946 Q. Did you hear that he went upon a boat and was only gone a short time, and then returned?

A. He stayed there two or three months at the outside.

Q. On the death of Vicente Romero Sy Quia who was appointed administrator of his estate?

A. My mother in accordance with an agreement together with the other heirs, with my brothers.

Q. When was she discharged as administratrix?

Sr. OPISSE: Objected to, the best evidence is the record of the Court.

Mr. O'BRIEN: How long did she continue as administratrix?

Sr. OPISSE: Same objection.

The COURT: Objection overruled.

Sr. OPISSE: Exception.

A. She continued until the estate was divided.

Q. When was the estate divided?

A. I do not remember exactly, I believe it was in the year 1900, more or less.

Mr. O'BRIEN: That is all.

JUAN NEPOMUCENO SY QUIA, called in his own behalf, being duly sworn, testified as follows:

Direct Examination by Sr. OPISSE:

Q. State your name?

A. Juan Nepomuceno Sy Quia.

Q. Where were you born?

A. At Vigan, Ilocos Sur.

Q. How old are you?

A. Forty-six years of age.

947 Q. What is your nationality?

A. I am a Filipino.

Q. Where have you resided since you were born?



- A. In Manila.
- Q. With whom have you resided in Manila?
- A. With my parents.
- Q. Who are your parents?
- A. Vicente Romero Sy Quia and Petronila Encarnación.
- Q. Is your father Don Vicente Romero Sy Quia living or dead?
- A. He is dead.
- Q. When did your father die?
- A. On the 9th day of January, 1894.
- Q. Is your mother Doña Petronila Encarnación living or dead?
- A. She is also dead.
- Q. Where did she die?
- A. In Manila.
- Q. When did she die?
- A. On the 6th day of June, 1900.
- Q. Where is your father buried?
- A. At La Loma Cemetery.
- Q. Is there any tombstone on the grave of your father?
- A. Yes, sir.
- Q. I will now hand you Exhibit AB., and will ask you to tell us what the whole inscription is on that paper?
- A. It is a souvenir we made after the death of my father, and placed that on his tombstone.
- Q. What is that name "Evaristo" appearing at the top of the page of Exhibit AB., on the left hand side?
- A. That is the name of my dead child.
- Q. What is the name "Ricardo" appearing at the top of the page of Exhibit AB., on the right hand side?
- A. That is the name of the first child of my sister Maria who is dead.
- Q. What are the two names "Vicente" and "Vicente" appearing at the bottom of the page of Exhibit AB.?
- A. The first "Vicente" is the son of my brother Pedro, and the other "Vicente" is the name of a son of my brother Gregorio, both of whom are dead.
- Q. In what house did your father die?
- A. At No. 265 Calle Jolo.
- Q. State whether or not you were present at the death of your father?
- A. Yes, sir, I was present.
- Q. State whether or not there were any ceremonies on the occasion of the burial of your father?
- A. Yes, sir.
- Q. Where did these ceremonies take place?
- A. In the house itself.
- Q. What kind of ceremonies took place where your father died?
- A. We put on nine suits that, according to what they say, indicate nobility among the Chinese.
- Q. On whom were these nine suits placed?
- A. On my nephew Tomas, son of my brother Gregorio.

Q. Why were the suits placed on your nephew Tomas, son of your brother Gregorio?

A. Because, according to what was stated to us by Sy 949 Hien, who was master of the ceremonies, and to all of which my mother consented, which was not in opposition to the Catholic religion, all rich Chinaman who died in China must have nine suits put on the eldest son to signify primogeniture and nobility. We then asked him, in view of the fact that our brother Gregorio was not present, on whom we should put these nine suits, and he replied that we should put them on Tomas, the eldest son of Gregorio.

Q. Who is this Sy Hien to whom you have referred?

A. Sy Hien, according to my father is his brother.

Q. Besides the ceremonies you have just referred to that took place in your house, was there any other ceremony performed at any other place than your house?

A. After putting the suits on the grandson, they were taken off of him and placed on the deceased.

Q. My question is whether beside these ceremonies at the house, any other ceremonies took place outside of the house?

A. The funeral at the Church.

Q. What church?

A. The church at Binondo.

Q. Is that a Catholic Church, or what kind of a church it is?

A. A Roman Catholic Church.

Q. Have any Chinos at any time lived with your father and mother?

A. No, sir.

Q. Do you know Sy Yoc Leng and Sy Yoc Chay the plaintiffs in this case?

A. Yes, sir, I do.

950 Q. Have Sy Yoc Leng and Sy Yoc Chay ever lived with your father and mother?

A. No, sir.

Q. How do you happen to know Sy Yoc Leng and Sy Yoc Chay?

A. I knew especially Sy Yoc Chay because Sy Ty was the consignee of the steamers "Gloria" and "San Joaquin," and these steamers were making their trips to Ilocos Sur, and these consignments were under the charge of my brother Gregorio, and my brother Gregorio always sent some goods by these steamers, and these Chinos would bring the letters or other message that came by these steamers to our house.

Q. Do you know in what capacity they brought these letters or these goods that came on the steamers "Gloria" and "San Joaquin" from your brother Gregorio Sy Quia, to your house?

A. As messengers of Sy Ty.

Q. Have Sy Yoc Leng and Sy Yoc Chay ever eaten at your house?

A. No, sir.

Q. What kind of treatment did they receive there from Vicente

Romero Sy Quia, your father, or from your mother Doña Petronila Encarnación?

A. They were treated only as messengers of Sy Ty, and we knew them as such.

Q. Do you know Sy Jui Niu?

A. No, sir.

Q. Do you know Sy Chua Niu?

A. No, sir.

Q. Do you know Yap Puan Niu?

A. No, sir.

951 Q. Did you know Sy Bi Bo?

A. I did not.

Q. Did you know Sy Bi Git?

A. No, sir.

Q. Have you heard your parents Don Vicente Romero Sy Quia and Doña Petronila Encarnación mention the names of any one of these persons whose names I have just mentioned to you?

A. Never.

Q. Do you know after your father was married to Doña Petronila Encarnación he left the Philippine Islands for China at any time?

A. Only by hearsay, I heard that he left the Philippine Islands once.

Q. Do you know upon what occasion?

A. In the year 1867 or 1868, according to what we were informed.

Q. Do you know how long he was absent?

A. Some two months.

Q. How many brothers and sisters have you?

A. Four, I am the fifth.

Q. Who are those brothers and sisters?

A. Apolinaria, Maria, Gregorio, Pedro and myself.

Q. Are you all full brothers and sisters, from the same father and mother?

A. Yes, sir.

Q. Where is your sister Apolinaria?

A. In the cemetery of Paco.

Q. Is she living or dead?

A. She is dead.

952 Q. Where is your sister Maria?

A. She is also dead.

Q. What Was your sister Apolinaria married or single at the time of her death?

A. Single.

Q. Who died first, your father or your sister Apolinaria?

A. My father.

Q. Was your sister Maria single or married at the time of her death?

A. She was married.

Q. To whom was she married?

A. To Eustaquio Mendoza.

Q. Do you know whether or not they had any issue?

A. Yes, sir, they had.

Q. How many children did they have?

A. Two.

Q. Are these two children living or dead?

A. One is dead, the other living.

Q. What is the name of the one who died?

A. Ricardo.

Q. What is the name of the one who is living?

A. Generoso.

Q. Who was the eldest Generoso or Ricardo?

A. Ricardo was the oldest.

Q. Who has supported you and clothed you and educated you?

A. My parents.

Q. After the death of Don Vicente Romero Sy Quia, who took possession of the property left by him?

A. My mother.

953 Q. In what character did your mother take possession of the property left by your father Don Vicente Romero Sy Quia.

A. As administratrix of the estate.

Q. Have you ever been disturbed in any way in the possession of the property left by your father Don Vicente Romero Sy Quia?

A. No, sir.

Sr. OPISSO: That is all.

Direct examination by Sr. SUMULONG:

Q. Are you one of the defendants in this suit?

A. Yes, sir.

Q. Have you been living constantly with your father and mother?

A. Yes, sir.

Q. Up to the time of their death?

A. Yes, sir.

Q. Where were your father and mother residing?

A. First at Calle Jaboneros, and afterwards at Calle Jolo, where they died.

Q. Do you know whether or not while your father and mother were living, the now plaintiffs or their ascendants ever made a claim to your father and mother, or to you- five brothers and sisters, in regard to the property now in question?

A. No, sir.

Q. While your father was living did you ever hear him make mention of any other family besides the one he had here in Manila, that is you and your brothers and sisters?

954 A. Never.

Q. Were you living with your father shortly before his death?

A. Yes, sir.

Q. Did you receive any message from your father before his death

of any other children or wife of his besides you- brothers and sisters and your mother?

A. Nothing.

Sr. SUMULONG: That is all.

Cross-examination by Mr. O'BRIEN:

Q. Where was your father born?

A. In China.

Q. What place in China?

A. According to what I have heard in Am Thau.

Q. To what place in China did he return at the time you say you were told he returned to China?

A. That I could not tell you.

Q. To what place did you hear that he went?

A. I only heard that he went to China, that is all.

Q. How long since have you lived apart from your father and mother?

A. I never lived apart from them except when I was in college.

Q. How long were you in college?

A. One or two years.

Q. Did you live with your mother at the time of her death?

A. Yes, sir.

Q. How long has Pedro Sy Quia lived apart from his father and mother?

955 A. We always lived together, with the exception of when we were at school.

Q. Was Pedro Sy Quia living with your mother at the time of her death?

A. No, sir, he was living in his house at Calle Azcarraga.

Q. How long had he been living in his house at Calle Azcarraga at the time of the death of your mother?

A. From the time he got married the second time.

Q. When was that?

A. I do not remember exactly. I believe in the year 1902 or 1903, it is not long ago.

Q. Where did Pedro live previous to the time he was married?

A. In the house of our parents.

Q. Did he and his first wife live with your mother?

A. Yes, sir.

Q. Did he remain there all the time, or did he occasionally make trips into the provinces on business?

A. He lived there constantly.

Q. When the suits of many colors were placed on the son of Gregorio Sy Quia, who were present?

A. Sy Hien, myself, Macario Favila, and some other Chinos.

Q. What other Chinos?

A. I do not remember their names, but I believe those two were also present (indicating the defendants Sy Yoc Leng and Sy Yoc Chay).

Q. Do you mean Sy Yoc Leng and Sy Yoc Chay?

A. Yes, sir.

Q. What was Sy Yoc Leng and Sy Yoc Chay doing there?

956 A. Nothing, they were there just like the other Chinos who were present there.

Q. Do you remember whether they were sent out of the house on some errand just previous to the putting on of these suits of different colors on Tomas, the oldest son of Gregorio?

A. No, sir.

Q. Did your mother make any objection to this ceremony?

A. No, sir.

Q. Did she order this ceremony?

A. My mother did not know of this ceremony, Sy Hien was the one who spoke about it, and she consented to it provided there was nothing in it that was contrary to the Catholic religion.

MR. O'BRIEN: That is all.

SR. SUMULONG: The defense rests, but we desire to cite certain canonical laws in regard to this matter, and also to have them identified by a competent person, who will guarantee their authenticity.

The COURT: I believe the best evidence would be the filing of the books here.

SR. SUMULONG: We will then present the books here tomorrow and have them identified by Padre Juan Sanchez.

The COURT: You may do so.

*Rebuttal.*

SY YOC LENG, recalled in his own behalf, testified as follows:

Direct examination by Mr. BISHOP:

957 Q. You are one of the plaintiffs who testified in this case?

A. Yes, sir.

Q. You have stated that you were present at the funeral ceremonies in the house of Sy Quia, have you not?

A. Yes, sir.

Q. Were you present at the time that the suits of nine colors were put upon the son of the defendant Gregorio Sy Quia?

A. I was not there.

Q. Were you present at the time that some ceremony of putting some clothes upon the son of Gregorio Sy Quia was performed by Sy Hien?

A. No, sir, I was not there, I had been sent out of the house for more shoes, and I brought back some, but the size was too small and I had to go back again to get others.

Q. Who sent you out?

A. Sy Hien.

Q. State, if you know, whether the plaintiff Sy Yoc Chay was present during that ceremony, I mean the ceremony of putting the clothes on the son of Gregorio Sy Quia?

A. I went out, and I don't know whether he was present there or not.

Q. How much money did you say you had received from Doña Petronila Encarnación?

A. Six thousand pesos. The first time was for four thousand pesos, when I left a receipt for Sy Hien to sign. I believe Faustino Mascarda is the one who wrote the receipt, the bookkeeper of Sy Ty.

I believe the receipt was drawn in this way: Received from 958 Petronila Encarnación the sum of four thousand pesos as part of my inheritance, something like that.

Q. Go on.

A. And when I took that money it was put on to Sy Ty, and there is an entry in the book that such a sum of money was delivered.

Q. Do you know whether there is an entry of that payment of four thousand pesos to you upon the books of the house of Sy Ty?

Sr. ROSADO: Objected to on the ground that the books themselves are the best evidence.

The COURT: Objection overruled.

Sr. ROSADO: Exception.

A. I know that there is such an entry.

Q. When did you receive the two thousand pesos from Doña Petronila Encarnación?

A. On the 9th day of January, 1905.

Q. How did you receive that money?

A. In bank notes.

Q. Who handed it to you?

A. The same Petronila Encarnación, I was accompanied by a Filipino by the name of Emilio Medina.

Q. Where is that Filipino now?

A. I do not know, but it is said that he lives at Ermita. I believe that Don Gregorio was in the paint store, called No. 82, he was there when I was going to the house of Petronila Encarnación at Calle San Fernando, and Gregorio called me and said: "What do you want, my mother is preparing for you two thousand pesos 959 to do some business with, you don't think of anything else, eh; according to what we have heard you have a complaint to file against us".

Mr. BISHOP: That is all.

Cross-examination by Sr. SUMULONG:

Q. Do you know if Sy Yoc Chay received any money from Don Vicente Romero Sy Quia, or Doña Petronila Encarnación?

A. First I received four thousand pesos, and Petronila Encarnación told me she would like to give two thousand pesos to Sy Yoc Chay, and I believe in the year 1903, I accompanied Sy Yoc Chay to go there.

Q. In what did you invest this six thousand pesos which you state you have received from Doña Petronila Encarnación?

A. The first four thousand pesos was placed in the house of Sy Ty, and the two thousand pesos I kept.



Q. The first four thousand pesos you invested in a business which you had with Sy Ty, is that not so?

A. Manuel Sy Ty was on the steamer "Gloria" as supercargo, and in some trips I was a partner of his, and from this four thousand pesos I also sent a Chino to buy some tobacco leaf at Cagayan.

Q. So you alone are the one who invested this four thousand pesos in your own business?

A. Yes, sir.

Q. And in that business Sy Yoc Chay had no share?

960 A. I was alone, I had no participation with Sy Ty.

Q. Have you still the two thousand pesos given you by Doña Petronila Encarnación?

A. No, sir, that has all been spent.

Q. You were the only one who used this two thousand pesos, is not that so?

A. Yes, sir, I have a family now and always require money.

Q. And Sy Yoc Chay did not participate in the spending of any part of the money?

A. You mean the two thousand pesos?

Q. Yes.

A. I was accompanied by a Filipino to go there and get this two thousand pesos, and Sy Hien o. k'd the receipt and it was signed also by the Filipino as a witness, and I remember the receipt was drawn in this way: Received from Petronila Encarnación the sum of two thousand pesos to invest in my own business.

Q. What was the reason of entering the four thousand pesos in the books of Sy Ty?

A. Whenever I had money I always deposited it with Sy Ty.

Q. Does it appear in the books where that money came from?

A. Yes, sir, always.

Q. And does it also state in the books the reason why Doña Petronila Encarnación gave this money?

A. First it is entered in the name of Petronila Encarnación and then afterwards transferred to me.

Q. My question is this: whether or not it is entered in the books the reason why Petronila Encarnación gave to you that money?

961 A. It is entered in the books. Petronila Encarnación four thousand pesos, but I believe in the book of current account it is transferred to my name, credited to me as taken from Petronila Encarnación and transferred to Sy Leng, four thousand pesos, that is in the day book.

Q. The entry having been made in the books of Sy Ty, what was the necessity for your giving a receipt for it to Doña Petronila Encarnación?

A. Sy Hien signed them, I did not sign.

Q. Did you not sign the receipt that remained in the possession of Doña Petronila Encarnación, for the four thousand pesos?

A. I did not, Sy Hien only. When Sy Quia died I heard from Sy Hien that he had said that if he died without a will that he should take care of us and give us some money.

Mr. BISHOP: We ask that the last statement of the witness be stricken from the record as hearsay.

The COURT: It may be stricken out.

Q. When was that receipt issued that Sy Hien signed in favor of Doña Petronila Encarnación: was it before it was placed in your name in the books of Sy Ty, the said four thousand pesos, or after?

A. First the receipt was drawn and taken by the Filipino Faustino to the house of Petronila Encarnación to receive the money, and then after that the receipt was turned over to her.

Q. Was it that Filipino alone who received that four thousand pesos from Doña Petronila Encarnación?

A. He himself went to get it there.

962 Q. So neither you nor Sy Hien received directly from Doña Petronila Encarnación this four thousand pesos?

A. That person received the money and delivered it to the *chasier* of Sy Ty.

Q. Who told you that Doña Petronila Encarnación gave that four thousand pesos: that Filipino or Sy Ty?

A. Sy Hien is the one who informed me that Petronila Encarnación wanted to give me this four thousand pesos, and to that effect he signed a receipt, and said receipt was given to Faustino Mascarda, the bookkeeper of the house of Sy Ty.

Q. So you were not present when Doña Petronila Encarnación gave that money to that Filipino?

A. No, sir.

Q. And how do you know that that Filipino signed that receipt?

A. When that Filipino had finished drawing that receipt he took it to Sy Hien to sign.

Q. And you saw Sy Hien sign that receipt?

A. Yes, sir, and then it was given to the Filipino to go and get the money.

Q. Did you see the Filipino sign that receipt?

A. No, sir, the Filipino did not sign, Sy Hien is the one who signed.

Q. Can you tell us when the delivery of that money was made, give us the approximate date of the year, more or less?

A. In the year 1897, on the third day of April.

Q. Is it not true that at that time Sy Hien was bankrupt, and he very frequently went to Doña Petronila Encarnación and her sons to ask for money?

A. No, sir, he was not yet bankrupt.

963 Q. Is it not true that at this time he contracted so many liabilities with the estate of Sy Ty, that he required some money to meet all these liabilities?

A. It was in 1902 or 1903 I believe when the suit between them commenced.

Q. But in 1897 he was administering the estate of Sy Ty, is not that true?

A. Yes, sir.

Q. And although there was no suit at that time, yet Sy Hien was under the necessity of going and asking for some money from

Doña Petronila Encarnación and her children, is that not so, to meet some liabilities he had contracted with the estate of Sy Ty?

A. The receipt that Sy Hien signed was for me, for four thousand pesos.

The hearing was then suspended until 8 a. m., the following day.

January 29th, 1907.

Pursuant to adjournment the case was called this morning, with the same appearances.

SY YOC LENG, still on the stand, testified as follows:

Cross-examination continued by Sr. SUMULONG:

Q. Do you remember at least the month in which you have stated you had a conversation with Gregorio Sy Quia in regard to the money you state having received from Doña Petronila Encarnación in the year 1897, relative to the four thousand pesos.

Mr. O'BRIEN: Objected to as the witness never made such a statement, the conversation with Gregorio Sy Quia was with regard to the two thousand pesos, and was in 1902 or 1903.

Q. In what month did you have the conversation with Don Gregorio Sy Quia regarding the two thousand pesos which you state having received from Doña Petronila Encarnación?

A. I don't remember now the month, but I believe it was in January, 1905, that I got the money from Petronila Encarnación, and there is a Filipino witness to it (indicating a Filipino in the courtroom.)

Q. In what year and month was delivered to you by Doña Petronila Encarnación the four thousand pesos you have referred to?

A. On the 3rd day of April, 1897.

Q. Did you receive personally from the hands of Doña Petronila Encarnación the two thousand pesos that you have referred to?

A. Yes, sir, I myself in company with that Filipino whom I have just pointed out.

Q. Was Sy Hien the one who made the receipt for that two thousand pesos?

A. Sy Hien put his o. k. on the receipt, and I signed it also. First of all I signed the receipt, and that was sent there, but the money was refused on the ground that Sy Hien must sign the receipt also. The receipt was then taken back to Sy Hien for him to sign it, and he also placed a stamp on the receipt.

Q. What was your age when you signed that receipt?

A. Thirty-two years of age.

Q. In that receipt it is made to appear that Sy Hien received from Doña Petronila Encarnación two thousand pesos, is that not true?

A. No, sir, I received the two thousand pesos, but Petronila En-

carnación desired that Sy Hien should o. k. the receipt and sign it also, and as a matter of fact when the receipt was brought to Petronila Encarnación she told this Filipino here to sign the receipt as a witness also.

Q. Was it in any way explained in that receipt what was going to be done with those two thousand pesos?

A. In the receipt it is stated that it was to be invested in my own business.

Q. Why were you accompanied by a third person at the time of receiving that amount?

A. Because this Filipino used to be employed by Sy Hien in the house of Sy Ty, and I asked him to accompany me.

Sr. SUMULONG: That is all.

Redirect examination by Mr. O'BRIEN:

Q. Examine this book which I now hand you and state if you know what it is?

A. This is a book from the house of Sy Ty.

Q. What book?

966 A. The current account book.

Q. For what year?

A. The year 1897.

Q. Is this the book to which you have been referring in your cross-examination?

Sr. SUMULONG: Objected to on the ground that this is a new fact, and as not proper cross-examination.

The COURT: Objection overruled.

Sr. SUMULONG: Exception.

A. Yes, sir.

Q. Is this the entry in this book to which you have referred? (indicating an entry in the book)

Sr. OPISSO: Objected to as leading.

Q. Will you turn to the entry to which you have referred in your cross-examination?

A. Here they are on pages 105 and 138.

Mr. O'BRIEN: We now offer in evidence these two pages 105 and 138 of the current account book of the year 1897, showing the entries referred to by the witness, and ask that they be marked Exhibit AL., and AM., and ask that the stenographer may be permitted to copy these entries referred to in the record, so that the book may be returned to the firm.

The COURT: They may be copied into the record.

The entries are as follows.

Sy Lieng

105  
Haber

1897

Julio 2. Por traspaso cta. a P. Encarnación

\$4000.00

967	138	(Left side of double page.)	
	Debe	Petronila Encarnacion.	
1897			
Julio 2.	Por traspaso eta.	Sy Lieng	\$4000.00
		(Right side of double page.)	
		Petronila Encarnacion.	138 Haber
1897			
Abril 3.	Por su entrega en efectivo		\$4000.00

Sr. SUMULONG: We object to the admission of this proof; First, because this purports to be a commercial book yet it is not carried on in accordance with the Code of Commerce, the pages of this book are not sealed and it is not certified to by the Justice of the Peace of Manila as it ought to; Second, because what might be contained in the books of Sy Ty cannot be offered in evidence against Vicente Romero Sy Quia and Petronila Encarnación, but only a statement made by Petronila Encarnación or Vicente Romero Sy Quia or by a person duly authorized by them could be proof against said persons; Third, because it does not appear in this book that the amount referred to by this witness has not been delivered to Sy Ty or to this witness Sy Yoc Leng for other reasons than what this witness pretends to show in his statement. For these reasons I ask that these entries be not received in evidence.

The COURT: It having been developed on cross-examination of this witness that certain amounts which he declared he had received from Petronila Encarnación were entered in the books of the house of Sy Ty as thus received, for the purpose of making clear the declarations of the witness, it is not material whether the books were kept as required by the Code of Commerce or not, the fact that they may not support the declarations of the witness as to the manner of the transfer is immaterial, because the purpose for which they are offered is to make his statement clear. The objection is therefore overruled.

Sr. SUMULONG: Exception.

EMILIO MEDINA, called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. State your name?

A. Emilio Medina.

Q. Where do you live?

A. In Ermita.

Q. Whereabouts in Ermita?

A. No. 132 Calle Nueva, interior.

Q. How old are you?

A. Thirty-three years of age.

Q. What is your business?

A. Professor in the seminary of San Javier.

Q. What was your business formerly?

A. I was an employee of the firm of Sy Ty.

Q. During what period were you employed in the firm of Sy Ty?

A. About fourteen years, more or less.

Q. From what year until what year, approximately?

969 A. Approximately from the year 1893 up to the year 1905.

Q. Did you know a Chino by the name of Sy Yoc Leng during the time you were employed in the house of Sy Ty?

A. Yes, sir.

Q. Do you recollect having accompanied him on a certain occasion in order to get a certain amount of money?

A. Yes, sir.

Q. Will you kindly explain what occurred at that time?

A. In the early part of the year 1905 that Chino asked me to make out a receipt for two thousand pesos in order to get the money from Doña Petronila Encarnación.

Q. Did you make out the receipt?

A. Yes, sir.

Q. What did you do then?

A. After it was drawn I took it to Doña Petronila Encarnación.

Q. Did anybody go with you?

A. No, sir.

Q. Upon presenting the receipt to her, what did you do then?

A. She told me that she could not give it for the reason that in the receipt the word "abuela" was specified, and furthermore because in the receipt was mentioned the words "de mi parte", and for that reason she did not give it.

Q. After she refused to accept this receipt, what did you do then?

A. I asked her what requisite do you require, and she said to strike out from the receipt the words "de mi parte", and then I asked her in what way she wanted the receipt drawn out, and she told me to draft the receipt only for the use of business.

970 Q. Did you make the receipt as she required of you?

A. Yes, sir.

Q. What did you do then?

A. We went again to the house of Petronila Encarnación.

Q. Go ahead and tell us all about it.

A. Then she told me to call the Chino Sy Yoc Leng.

Q. What did you do next?

A. I called Sy Yoc Leng.

Q. Go on.

A. After arriving there at once she gave us the sum of two thousand pesos, and I signed the receipt also as a witness.

Q. Did any body else sign the receipt?

A. I do not remember any body else.

Q. You say you signed the receipt as witness?

A. Yes, sir, as a witness.

Q. Did Sy Yoc Leng sign the receipt?

A. Yes, sir.

Q. What kind of money was paid in this transaction?

A. All in bank notes.

Q. At the time you received this money, did you overhear any conversation between Sy Yoc Leng and Petronila Encarnación.

A. None whatever.

Mr. O'BRIEN: That is all.

Cross-examination by Sr. SUMULONG:

Q. What are you professor of at the present time in the Seminary of San Javier?

A. Professor of gymnastics.

971 Q. On what date of the year 1905 did you cease to serve the firm of Sy Ty?

A. In September, 1905, about the middle of that month.

Sr. SUMULONG: That is all.

SY HIEN, recalled by the plaintiffs in rebuttal, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. Were you present at the funeral exercises of Vicente Romero Sy Quia in his house?

A. I want a Chinese interpreter.

Sr. ROSADO: I object to a Chinese interpreter being called for this witness, he testified before in Spanish and Tagalog, and I object to any change now.

Q. Testify in Spanish or Tagalog as you did before.

A. I was there but not all the time.

Q. Were you there at the time the suit of many colors was placed upon the son of Gregorio Sy Quia?

A. I do not remember about that.

Q. Do you mean to state that you do not remember whether you were present or that you do not remember the circumstance?

A. I do not remember those things.

The COURT: There is no use proceeding further with this witness, he is evidently in such a condition that his testimony can have no value.

Mr. O'BRIEN: He certainly seems dazed this morning.

972 SY HONG KI, called in behalf of the plaintiffs, being duly sworn, testified as follows: his testimony being interpreted by Benito P. Rivera.

Sr. ROSADO: We make the same objection in regard to the oath that we have made in the case of other Chinese witnesses.

Question by the COURT:

Q. Do you know of any other form of oath that will bind you to tell the truth, any form that is stronger than the oath which you have just taken?

A. The only thing is to take the oath in the name of the only true God.

The COURT: Proceed with the examination.

Sr. ROSADO: Exception.



Direct examination by Mr. O'BRIEN:

Q. State your name?

A. Sy Hong Ki.

Q. How old are you?

A. Forty years of age.

Q. Where were you born?

A. At Am Thau.

Q. When did you come to the Philippine Islands?

A. I was thirteen years of age when I came to the Philippine Islands.

Q. Where did you live when you came to the Philippine Islands?

A. I lived on Calle Anloague with Ui Hoco.

973 Q. Did you know a woman by the name of Yap Puan Niu?

A. Yes, sir.

Q. Where did you know her?

A. After I was three years in Manila I went to Cagayan, and on my return from Cagayan to Manila I lived in the house of Sy Ty, and there I knew that lady.

Q. What did you do in the house of Sy Ty?

A. I came from Cagayan to live there and work there.

Q. What part of the house did you live in?

A. At Calle San Fernando.

Q. But in what part of the house, downstairs or upstairs or where?

A. Downstairs.

Q. While you were living there did you know Vicente Romero Sy Quia?

A. Yes, sir.

Q. Do you recollect whether or not during the time that Yap Puan Niu was at the house of Sy Ty, Vicente Romero Sy Quia visited that house?

Sr. SUMULONG: Objected to on the ground that it is not proper rebuttal.

The COURT: Objection overruled.

Sr. SUMULONG: Exception.

A. Every two or three days he used to call once in the house.

Q. Did you take the baggage of Yap Puan Niu to the boat when she left for China?

A. I carried that.

974 Q. Who accompanied Yap Puan Niu to the steamer?

A. Sy Ty and Sy Quia, and Sy Quia took two black blankets from Ilocos, and there was some money and a lot of things inside the blankets.

Mr. O'BRIEN: That is all.

Cross-examination by Sr. SUMULONG:

Q. How do you know that inside the blankets was some money?

A. Because he opened the blankets and gave it to her.

Q. How much money was inside these two blankets?

A. Three cartouches about six inches long each.

Q. In what place were these two blankets opened?

A. At the door of Sy Ty's house, very near the river, there was a banca waiting, where this woman Yap Puan Niu was.

Q. After the blankets were opened and you saw the money that was there, were the blankets again tightened up and the money left as it was before inside the blankets?

A. After it was wrapped up again Yap Puan Niu gave it to her grand child Sy Yoc Leng, and Sy Yoc Leng opened the box and put it inside.

Q. Do you know how much money was there?

A. Three cartouches, but I don't know how much was in each cartouche.

Q. When these bundles were opened, was it outside the house, about ready to embark?

A. Just at the door of the house near the river, and there was the banca.

Q. And shortly before going downstairs to the door of that house which was near the banca, Sy Quia had been at that  
975 time upstairs, is that not so?

A. Sy Quia was there at the door together with Sy Ty.

Q. The question is, whether before Yap Puan Niu came downstairs and with all those who accompanied her to embark had Sy Quia been upstairs in the house?

A. Sy Quia was not upstairs at the time when Yap Puan Niu was coming downstairs from the house, but it was at that time that Sy Quia arrived there from his house.

Q. Is it not true that these two blankets were given to Yap Puan Niu while she was upstairs in the house?

A. No, sir, downstairs. Sy Quia did not go up, and as soon as Yap Puan Niu came downstairs he gave it to her.

Q. Do you know whether or not Sy Quia knew that Yap Puan Niu was going away that day for China?

A. I believe he knew, otherwise why should he have gone there if he did not know it.

Q. Is it not true that a few hours before Yap Puan Niu's departure Sy Quia was in the house where Yap Puan Niu was?

A. On that day I did not see him in the house except there downstairs when he brought the money in the blankets.

Q. What year did Yap Puan Niu come to Manila approximately?

A. I believe it must have been the year 1886.

Q. How many times did Yap Puan Niu come to Manila?

A. Only on that occasion I saw her here, but I heard that she had been here on another occasion.

Q. What was your age when Yap Puan Niu received these two blankets with this sum of money you have testified to?

A. About eighteen or nineteen years old.

976 Q. Up to what place did you accompany Yap Puan Niu, to the banca only or to the steamer?

A. To the banca only; when the banca went away I went home.

Q. Up to what place did Sy Ty and Sy Quia accompany Yap Puan Niu, if you know, to the steamer or to the banca only?

A. As far as the banca only: the banca went away and so also did Sy Ty and Sy Quia.

Q. Where are you working now?

A. At Calle Jaboneros.

Q. Who is your head man?

A. Sy Yoc Chieng.

Q. What relation is there between Sy Yoc Chieng and Sy Yoc Leng?

A. Neighbors of the same town, countrymen.

Q. Are they related to each other?

A. Only countrymen.

Q. Is it not true that the words Sy Yoc in the name of Sy Yoc Chieng and Sy Yoc Leng indicates that they are related to each other?

A. It is the same name, but they are not relations.

Sr. SUMULONG: That is all.

JUAN SANCHEZ, recalled for the purpose of testifying in relation to the laws to which he referred in his former testimony, testified as follows:

Direct examination by Sr. SUMULONG:

977 Q. Are you able to state the canonical laws in force during the years from 1840 to 1860 in regard to canonical marriages, I refer now to the substantive laws in the Philippine Islands.

Mr. O'BRIEN: Objected to on the ground that it is immaterial and incompetent.

Q. What were the canonical laws in force during the years from 1840 to 1860 in regard to canonical marriages, that is the substantive laws in the Philippine Islands?

A. The law in force is the law of the church, as established by the Council of Trent.

Q. Can you tell us where can be found a transcript of the Council of Trent, in an official manner and exact?

A. The records of the Council of Trent appear in a book.

Q. Is there any official publication authorized by the Church, or some officer thereof, wherein appears the Council of Trent, I mean the text of it?

A. All must be approved by the Church to be authentic.

Q. Can you tell us what laws were in force from the years 1840 to 1860, I mean the canonical laws, in regard to the marriage of a non-christian Chino, who after being converted to Christianity desired to get married to a Filipina, or to a mestiza or Spaniard, I mean the laws in force in the Philippine Islands?

Mr. BISHOP: Objected to as incompetent and immaterial, and as having no civil effect in the Philippine Islands.

The COURT: If they are going to show that they were married according to these laws, it seems to me it is immaterial: the objection is overruled.

Mr. BISHOP: Exception.

978 A. Yes, sir. In the first place regarding the marriage of a non-Christian converted to Christianity, who desired to get married to a Filipina (consulting a book in his hands)——

Mr. BISHOP: Then we will have to add to our objection that it is not the best evidence, as it is apparent that the witness is referring to written law.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

Q. What are the laws, kindly cite to us one by one, as well as where the text can be found of said laws?

A. According to this, there is distinction to be made: whether the Chino had been married in China as a non-Christian or not.

Q. Will you kindly cite to us the laws which are applicable to a Chino in any case, who desired to get married with a Filipina?

A. If that Chino, while a non-Christian, was married there in China before becoming a Christian, and then afterwards came here and was converted to Christianity, in that case the following laws apply: The Decree of Graciano, Chapter 2nd, second proposition of the 29th Canon, and the Decree of Pope Inocencio III, Chapter VII, tit. XIX, in Book IV of the Papal Edicts, which is also treated of in the Concilio de Iliberis, Canon X, and in Pope Pio V, as may be seen in Benedict XIV, de Synodo Diocesano, Book XIII, Chapter XXI, and in Gregorio XIII, in the Bula "Populis ac Nationibus," dated January 25th, 1585, and in the Holy Congregation in the decision of the Apostolic Vicars of Xensi y Xensi, dated November 23rd, 1769. In addition there — many other Resolutions of

979 the Holy Assembly of Rome which may be seen in the authenticated acts of the proceedings at Rome, the name of the book is Acta Congregation. Now if the Chinaman was not married there in China, then the law applicable is the law applicable to foreigners in order to ascertain the status of single condition, which may be seen in the Council of Trent, 24th Session of the Reformation in relation to Marriages, in the 8th Chapter. The instruction for the investigation appears in the Instructions of the Holy Congregation, dated October 13th, 1699, and the interrogatories for the same is dated August 21st, 1670. This is directory. That is all.

ST. SUMULONG: Were there any special laws in force in the Philippine Islands during the period from 1840 to 1860 applicable particularly to a marriage contracted by a Chinaman who was converted to Christianity, and who desired to marry a Filipina?

Mr. BISHOP: Objected to as not being the best evidence, and as presuming on the province of the Court.

The COURT: These ecclesiastical laws the Court does not take judicial notice of, and if they turn out to be civil laws which the Court can take judicial cognizance of, the evidence is superfluous.

Mr. BISHOP: I withdraw the objection.

A. That question has been already answered.

Q. Was there any law or proceeding or not wherein was prescribed the procedure in relation to making the investigation regarding the civil status of a Chinaman who desired to marry a Filipina?

980 A. I have already stated that in the instructions before referred to, the proceedings are mentioned, though there are instances in which it is left to the discretion of the Bishop to have such questions asked as may determine the status.

Q. Can you tell us what part of these laws give discretion to the ecclesiastical authorities, and what part of them require a precise course to be pursued, regardless of the discretion?

A. With regard to a non-Christian who is single and not married, the only thing is to make an investigation in regard to his condition, as to whether he is single or not.

Mr. O'BRIEN: I move to strike out the answer of the witness on the ground that it is not responsive to the question, the question calling for citations only.

The COURT: It may stand.

Mr. O'BRIEN: Exception.

Q. Will you kindly proceed with your answer as to what part of these laws are discretionary with the ecclesiastical authorities?

A. That question cannot be answered as you put it.

Sr. OPISSE: The question is what part of these laws is discretionary, and what part is indispensable and essential?

Mr. BISHOP: If that question calls for citations it is unobjectionable, but if it calls upon the witness to state what the discretion may be it is extremely objectionable.

A. As regard non-Christian Chinos, the essential part is to inquire in regard to his condition, his civil status.

Mr. BISHOP: I object to the question as incompetent and immaterial, and as calling for a conclusion of the witness,  
981 and as not the best evidence.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

Sr. OPISSE: Can you tell us what part of this proceeding is discretionary in the ecclesiastical authorities, and which part is where there are special prescriptions which must be followed in order to find out the civil status of a non-Christian?

A. The manner of procedure is discretionary, but the law requires that it shall appear certainly whether the person is married or unmarried.

Sr. SUMULONG: Do you wish to be understood as saying that the manner of procedure to ascertain whether the Chino is married or unmarried, is discretionary?

A. Yes, sir, even though there may be some instructions which are set forth, but they are merely directive and not mandatory.

Q. Do these directory instructions appear in the laws you have referred to a short time ago?

A. Yes, sir.

Q. In regard to the way of making the investigation as to whether or not the Chino who desired to contract marriage here was single or not, do you mean us to understand which is the form which is more acceptable and usual among the ecclesiastical authorities during the period from 1840 to 1860?

Mr. BISHOP: Objected to for the reason that it does not appear that the witness is qualified to answer: from his age it would be a physical impossibility for him to know. He has just stated it was discretionary and could not possibly know what happened before his birth.

982 The COURT: Objection sustained.

Sr. SUMULONG: From what date, if you know, did the laws which are at present in force go into effect in relation to the inquiries necessary to be made as to the civil status of a Chinaman who desired to be married here?

Mr. BISHOP: Objected to as not being the best evidence, and especially as calling for a legal conclusion of the witness.

The COURT: He may answer, if he knows.

A. I will have to refer to the books.

Q. I will now hand you a book and will ask you to state what it is? (Marked for identification Exhibit D. 5.)

A. This is a book which contains the decisions of Sanctae Sedis or the decrees of the same, made especially for the Mission in China.

Q. Is there to be found in this book any of the decisions or canonical law to which you have referred already in your testimony?

A. Yes, sir.

Q. Can you tell us what laws cited by you are in that book?

A. The papal bull of Gregorio XIII, which begins "Populis ac Nationibus."

Q. Is there any other of the canonical laws contained in that book, to which you have referred in your statement?

A. There must be, but I have not looked it all over.

Q. I will now hand you another book, marked for identification Exhibit D6., and will ask you to state what it is?

983 A. This is a book written by the Dominican Bishop of Nueva Caceres, Francisco Gainza, and is entitled "Facultades de los Obispos de Ultramar.

Q. Is there to be found in this book any of the canonical laws mentioned by you in your testimony?

A. On Page 91 there is a part of the papal bull of Gregorio XIII "Populis ac Nationibus", and on Page 94 is contained a copy of the decision of the Apostolic Vicars of Xensi y Xensi in the Holy Congregation, dated November 23d, 1769. That is all.

Q. What authority does this work enjoy, if any, among ecclesiastics in regard to the matters treated of in the same?

A. This work is a classic in regard to the matters of which it deals.

Q. Will you kindly state whether this book was especially written

for the Philippine Islands, for the use of parochial priests and bishops of these Islands?

A. Yes, sir, for the bishops and parish priests of Ultramar.

Q. Will you kindly refer to pages 76 and 77 and the following pages of this book of Francisco Gainza, and kindly state if Solita Undécima on those pages was in force during the period from 1840 to 1860?

Mr. BISHOP: Objected to as incompetent and immaterial, and as calling for a conclusion of the witness.

The COURT: Objection overruled.

Mr. BISHOP: Exception.

A. Yes, sir, it was.

Q. I will now hand you two books, marked for identification Exhibits D7. and D8., and will ask you to state what they are?

984 A. This is a work in two volumes entitled "Tratado Teorico-Practico de Procedimientos Ecclesiasticos en materia civil y criminal", and is written by Jose Cadena Y Elela.

Q. What authority, if any, has this work among ecclesiastics?

A. It has a great deal of authority.

Q. Do you know whether or not the author of this work is living or dead, and what position he holds at the present time?

A. He is living, and is a Bishop in Spain.

Q. Will you kindly tell us if these books, marked for identification D5., D6., D7., and D8, which you have just examined are books published by permission and authorization of the ecclesiastical authorities?

A. Yes, sir, they are.

Sr. SUMULONG: We now offer in evidence these four books marked D5., D6., D7., and D8. in regard to the pertinent point of the laws to be found in said books which have been cited by the witness: those parts only are offered which have been designated and referred to by this witness in his testimony.

Mr. BISHOP: Objected to as incompetent and immaterial for the reason that the parts which refer to procedure have no civil effect in the Philippine Islands, and the parts which are commentaries upon law and procedure would be immaterial if the ecclesiastic laws to which they refer are incompetent and immaterial.

The COURT: Objection sustained.

Sr. SUMULONG: Will you kindly tell us if the books which you have just identified, marked for identification Exhibits D5.,  
985 D6., D7. and D8. are accepted generally among the Catholic priests, among the parish priests and bishops and other ecclesiastical authorities as books of reference, or as books that contain exactly the laws and ecclesiastical regulations written in the same, and if the authority of these books is recognized among all the Catholic priesthood?

A. Yes, sir.

Sr. SUMULONG: We now offer these books again in evidence, Exhibits D5., D6., D7. and D8.

Mr. BISHOP: We renew our objection.



The COURT: I think they may be accepted as containing the laws and coming within the provision of the laws which are accepted and received in the tribunals in which they may be used, for the purpose of determining; and for the further reason that the commentaries may be used the same as works on jurisprudence. The objection will be overruled.

Mr. BISHOP: Exception.

Sr. SUMULONG: We will ask permission to present certified copies of those parts of these books, Exhibits D5., D6., D7. and D8. which have been referred to and identified by the witness.

The COURT: You may present copies of the parts to which you have referred.

Sr. SUMULONG: That is all.

986

*Sur-Rebuttal.*

GREGORIO ROMERO SY QUIA, called in behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Sr. SUMULONG:

Q. State your name?

A. Gregorio Romero Sy Quia.

Q. How old are you?

A. Fifty years of age.

Q. Where do you reside now?

A. Do you mean at the present time?

Q. Yes.

A. Here in Manila.

Q. Where have you resided before you came here?

A. At Vigan.

Q. How long have you resided at Vigan?

A. Since the year 1873.

Q. And from that time up — the present time have you been residing at Vigan constantly?

A. Yes, sir.

Q. Were you in Vigan in the year 1905?

A. Yes, sir.

Q. Have you been in Manila during the year 1905?

A. In January of that year I was here about six days, and in June of the same year also six days. Ordinarily I come here twice a year to visit my family.

A. Do you know a Chino named Sy Yoc Leng?

A. Yes, sir.

987 Q. Where did you know him?

A. In the house of Sy Ty, when I used to go there to settle my accounts.

Q. What business did you have with Sy Ty?

A. I was the consignee of his steamers in the provinces.

Q. What kind of relation existed between you and Sy Yoc Leng?

A. None whatever, I merely knew him in the house of Sy Ty as an employee of Sy Ty's.

Q. Will you kindly state if you had any conversation with Sy Yoc Leng during the year 1905, regarding two thousand pesos which you told him to go and get from Doña Petronila Encarnación, which money Doña Petronila Encarnación had prepared for him?

A. No, sir.

Q. Did you have any mercantile transactions with Sy Yoc Leng?

A. None whatever.

Q. Did you or any of your brothers ever examine the papers left by your mother at the time of her death?

A. Yes, sir, we examined all her papers after her death.

Q. Did you or any of your brothers examine receipts signed by Sy Yoc Leng and Sy Hien, wherein it appears that they received certain amounts from your mother?

A. There were none signed by Sy Yoc Leng, but I was informed by my brothers that there were some receipts of Sy Hien, because ordinarily Sy Hien borrowed money from my mother, but those receipts have been destroyed, as when he came and paid the money the receipt was delivered back to him: these were in commercial transactions, and furthermore these amounts must appear in  
988 the books of Sy Hien because they were for promissory notes given.

Mr. BISHOP: We move that the answer of the witness be stricken out for the reason that it is a conclusion of the witness and hearsay.

The COURT: If we strike out the fact that establishes the hearsay we have nothing left.

Mr. BISHOP: I withdraw the objection.

Q. Who of your brothers knew of the fact that Sy Hien had issued some receipts in favor of your mother?

A. My two brothers Pedro and Juan, who lived all the time here in Manila with my mother.

Sr. SUMULONG: That is all.

Mr. BISHOP: No cross-examination.

Sr. SUMULONG: We have a witness here who can testify that the Chino Sy Hong Ki did not live in the house of Sy Ty.

Mr. O'BRIEN: And we can bring all the neighbors of that vicinity to prove that he did live in the house of Sy Ty.

The COURT: That is too speculative.

Sr. SUMULONG: That is all we have to offer.

The COURT: The case is closed.

989 *Ruling of the Court on the Objections Made in the Deposition of Li Ung Bing.*

Objection, Page 3., Line 2.

Sr. OPISSO: This objection is not insisted on.

Objection, Page 3., Line 8.

Sr. OPISSO: We insist on this objection.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 4., Line 13.

The COURT: Objection sustained.

Objection Page 5., Line 7.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 7., Line 19.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 7., Line 25.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 7., Line 33.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 8., Line 13.

The COURT: It does not appear to be material, but the objection may be overruled.

Sr. OPISSO: Exception.

990 Objection, Page 8, Line 20.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 8., Line 25.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 9., Line 4.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 10., Line 8.

The COURT: There is no objection to pass on, Proceed.

Sr. OPISSO: Exception.

Objection, Page 10., Line 16.

The COURT: I do not see now how it is material, but the objection is overruled on the ground stated: that is no ground of objection.

Sr. OPISSO: Exception.

Objection, Page 11., Line 29.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 12., Line 2.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 12., Line 14.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Objection, Page 12., Line 22.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

991 Objection, Page 12., Line 33.

The COURT: I do not know how it is material, but it may stand it does not hurt anything, and may not do any good. Objections are generally made to the introduction of evidence if the proof

is prejudicial to any right or interest, they are the only proper objections. The objection is overruled.

Sr. OPISSO: Exception.

Objection, Page 17., Line 4

The COURT: Objection overruled.

Objection, Page 17., Line 23.

Sr. OPISSO: We object, as the witness is not competent to testify, and the best evidence should be introduced.

Mr. BISHOP: We ask to have the ruling reserved until we can introduce the written laws, and then it will be clear as to how much is covered by the written law, and how much not.

The COURT: The evidence may stand.

Sr. OPISSO: Exception.

Objection, Page 25., Line 7.

Mr. BISHOP: We never asked a word about this on direct examination, this was brought out on cross-examination.

The COURT: It may stand.

Sr. OPISSO: Exception.

Objection, Page 25., Line 15.

Sr. OPISSO: This comes from direct examination.

Mr. BISHOP: They particularly asked on cross-examination when is the marriage consummated, and not one word in  
992 direct examination, so in redirect examination we wanted to make it clear.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 25., Line 23.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 26., Line 9.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 26., Line 16.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 26., Line 23.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 27., Line 9.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection Page 28., Line 1.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

993 *Ruling of the Court on the Objections Made in the Deposition of Sy Peng.*

Objection, Page 29., Line 13.

Mr. O'BRIEN: This is the objection about the oath.

The COURT: That has already been passed upon.

Sr. OPISSO: Exception.

Objection, Page 34., Line 14.

The COURT: There is nothing leading about that, objection overruled.

Sr. OPISSO: Exception.

Objection, Page 35., Line 16.

Sr. OPISSO: We insist on this objection.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 36., Line 21.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 37., Line 11.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 38., Line 9.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 38., Line 20.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

994 Objection, Page 39., Line 8.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Objection, Page 42., Line 1.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Objection, Page 43., Line 15.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 43., Line 20.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 45., Line 6.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 45., Line 11.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 45., Line 16.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 46., Line 1.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 46., Line 10.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

995 Objection, Page 46., Line 14.

The COURT: It is merely recitative, there is no objection to it, it does not make any difference.

Sr. OPISSO: Exception.

Objection, Page 46., Line 18.

The COURT: Same ruling.

Sr. OPISSO: Exception.

Objection, Page 47., Line 1.

The COURT: Same ruling.

Sr. OPISSO: Exception.

Objection, Page 47., Line 7.

The COURT: There is nothing leading about it, and it is competent.

Sr. OPISSO: Exception.

Objection, Page 48., Line 2.

The COURT: This is simply asking the witness to write the name of the man he has been testifying about, there is nothing suggestive or leading about this, you cannot write a person.

Sr. OPISSO: We think there is assumption there.

The COURT: There is no assumption. Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 49., Line 9.

Sr. OPISSO: Objection withdrawn.

Objection, Page 49., Line 19.

Sr. OPISSO: Objection withdrawn.

Objection, Page 50., Line 17.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

996 Objection, Page 51., Line 7.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 51., Line 20.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 52., Line 3.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 52., Line 7.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 52., Line 19.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 54., Line 8.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 54., Line 13.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 54., Line 20.

The COURT: It is not leading because it does not suggest by any possibility what the answer should be, objection overruled.

Sr. OPISSO: Exception.

Objection, Page 55., Line 5.

The Court: Objection overruled.

Sr. Orisso: Exception.

997. Objection, Page 55, Line 10.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 55, Line 14.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 56, Line 1.

The Court: Objection overruled and motion denied.

Sr. Orisso: Exception.

Objection, Page 56, Line 19.

The Court: Objection overruled, most of these objections do not admit of argument.

Sr. Orisso: Exception.

Objection, Page 56, Line 23.

The Court: Same ruling.

Sr. Orisso: Exception.

Objection, Page 57, Line 2.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 57, Line 7.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 57, Line 11.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 57, Line 15.

The Court: Objection overruled.

Sr. Orisso: Exception.

998. Objection, Page 57, Line 19.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 58, Line 2.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 58, Line 14.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 58, Line 17.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 58, Line 21.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 61, Line 13.

Sr. Orisso: Objection withdrawn.

Objection, Page 62, Line 10.

The Court: Objection overruled.

Sr. Orisso: Exception.

Objection, Page 62, Line 23.



The Court: Motion denied.

Sr. Orison: Exception.

Objection, Page 63, Line 9.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 64, Line 8.

The Court: Objection overruled.

Sr. Orison: Exception.

999 Objection, Page 64, Line 9.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 65, Line 9.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 65, Line 27.

The Court: It is merely repetition in order to make certain, the objection is not good.

Sr. Orison: Exception.

The Court: There is no exception to be taken, it is a matter of fact.

Objection, Page 67, Line 8.

The Court: Objection overruled, you might as well object to the witness testifying.

Objection, Page 67, Line 12.

The Court: Same ruling.

Sr. Orison: Exception.

Objection, Page 67, Line 18.

Sr. Orison: We raise the objection.

The Court: Same ruling.

Sr. Orison: Exception.

Objection, Page 68, Line 6.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 68, Line 12.

The Court: Objection overruled, asking the witness how he knew it.

Sr. Orison: Exception.

1000 Objection, Page 68, Line 17.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 68, Line 22.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 69, Line 7.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 70, Line 6.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 70, Line 12.

The Court: Motion denied.

Sr. OPISSO: Exception.

Objection, Page 71., Line 11.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 71., Line 15.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 72., Line 1.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 72., Line 7.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

1001 Objection, Page 72., Line 17.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 72., Line 24.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 73., Line 19.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 74., Line 8.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 74., Line 17.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Mr. O'BRIEN: Page 74 (b) and Page 74 (c) are repetition.

Objection, Page 75., Line 19.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 76., Line 6.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 76., Line 14.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 76., Line 21.

The COURT: Proceed.

Sr. OPISSO: Exception.

1002 Objection, Page 81., Line 12.

Sr. OPISSO: Objection withdrawn.

Objection, Page 81., Line 16.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 82., Line 6.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 82., Line 15.

The COURT: I am wholly unable to find a single point upon which by any possibility this question could be incompetent, this witness has not testified as to the children of Sy Quia, and there can be no objection on the ground of repetition, it is very important as to who were the children of Sy Quia. The objection is overruled.

Sr. OPISSO: Exception.

Objection, Page 83., Line 1.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 83., Line 12.

The COURT: The records are hearsay, but are of a class of hearsay which are admissible, and may be admitted for what they are worth, and given such credence as they may be entitled to. The objection is overruled.

Sr. OPISSO: Exception.

Objection, Page 84., Line 10.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

1003 Objection, Page 84., Line 14.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 84., Line 19.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 85., Line 14.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 85., Line 20.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 86., Line 4.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 86., Line 14.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 86., Line 25.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 87., Line 17.

The COURT: Motion denied.

Sr. OPISSO: Exception.

Objection, Page 87, Line 22.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 88., Line 8.

1004 The COURT: If that question is leading I have no knowledge of the meaning of the English language, repetition of a question is not leading, it may be objectionable on account of the time it takes, but it certainly is not leading, and I have never heard in twenty-five years of practice that it was.

Sr. Oriso: Exception.

Objection, Page 89, Line 3.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 89, Line 8.

Sr. Oriso: Objection withdrawn.

Objection, Page 89, Line 15.

Sr. Oriso: The objection as leading is withdrawn, but as incompetent it is insisted on.

The Court: It is not conclusive in any way but may be one of the circumstances which sometimes creates stronger evidence than that which was positive. The objection is overruled.

Sr. Oriso: Exception.

Objection, Page 89, Line 24.

Sr. Oriso: The objection as leading is withdrawn, but as incompetent is insisted on.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 90, Line 8.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 90, Line 13.

The Court: It may be repetition, but it may stand as it is.

Sr. Oriso: Exception.

1905- Objection, Page 90, Line 20.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 91, Line 1.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 91, Line 6.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 91, Line 15.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 92, Line 2.

The Court: The record may stand.

Sr. Oriso: Exception.

Objection, Page 92, Line 10.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 93, Line 7.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 94, Line 1.

The Court: Objection overruled.

Sr. Oriso: Exception.

Objection, Page 94, Line 8.

The Court: This is merely cumulative. Objection overruled.

Sr. Oriso: Exception.

Objection, Page 95, Line 2.

1006 The Court: Motion denied.

Sr. Orison: Exception.

Objection, Page 95, Line 14.

The Court: I think it is immaterial, objection sustained.

Mr. Bishop: No Exception.

Objection, Page 95, Line 1.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 95, Line 11.

The Court: Objection sustained.

Mr. Bishop: No Exception.

Objection, Page 95, Line 29.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 100, Line 15.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 101, Line 18.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 102, Line 12.

The Court: Objection overruled.

Sr. Orison: Exception.

Objection, Page 102, Line 10.

The Court: I do not think it is very important, but the objection may be overruled.

Sr. Orison: Exception.

1007 Objection, Page 103, Line 11.

The Court: While it is not material to the issue there is no reason why it should be stricken out, the witness is simply defending himself, motion denied.

Sr. Orison: Exception.

Objection, Page 103, Line 1.

The Court: Motion denied.

Sr. Orison: Exception.

Objection, Page 118, Line 18.

Mr. Bishop: Objection withdrawn.

Objection, Page 120, Line 20.

The Court: Motion denied.

Sr. Orison: Exception.

Objection, Page 125, Line 12.

Mr. Bishop: Objection withdrawn.

Objection, Page 126, Line 6.

Mr. Bishop: Objection withdrawn.

Objection, Page 127, Line 6.

Mr. Bishop: Objection withdrawn.

Objection, Page 127, Line 16.

Mr. Bishop: Objection withdrawn.

Objection, Page 132, Line 26.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 133., Line 3.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

1008 Objection, Page 134., Line 6.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 134., Line 15.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 134., Line 23.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 135., Line 5.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 136., Line 1.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 136., Line 13.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 136., Line 23.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 137., Line 9.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 137., Line 16.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

1009 Objection, Page 137., Line 23.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 138., Line 7.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 138., Line 17.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 139., Line 2.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 140., Line 2.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 140., Line 11.

The COURT: Objection overruled.

Sr. OPISSO: Exception.

Objection, Page 140., Line 18.

The Court: Objection overruled, it may be an incident indicating they are the same person.

Sr. OPISSO: Exception.

I certify that the above is a correct transcript of shorthand notes taken by me of the proceeding in Civil Case No. 4164, entitled Sy Yoe Leng et al., vs. Petronila Encarnación et al., in the Court of First Instance for the City of Manila, on January 7, 8, 9, 10, 11, 21, 22, 23, 24, 25, 28th and 29th, A. D. 1907.

(Sgd.)

WM. M. BARRINGTON,  
*Official Reporter.*

1010 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance in the City of Manila.

Civil, No. 4164.

SY YOE LIENG, SY YOE CHAY, SY JUINIU, and SY CHUA NIU,  
Plaintiffs,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
JUAN SY QUIA, and GERENOSO MENDOZA SY QUIA, Defendants.

*Bill of Exceptions.*

Know all persons by these presents, that after all the pleadings which appear in the record were presented and the celebration of the trial in the above entitled cause, the court, on the 26th day of February 1908, dictated the following decision.

(Omitting Name of Court and Title of Case.)

*"Decision."*

This case is now before the Court for trial upon a complaint by the plaintiffs, as heirs of one Sy Quia, later known as Vicente Romero Sy Quia, for a discovery by the defendants of all property of which the said Sy Quia died seized or possessed, coming into their possession or control, and of the rents and profits thereof since the death of said Sy Quia; for the appointment of a receiver for all the property disclosed upon such discovery, and of the said rents and profits thereof; for judgment that the plaintiffs be declared  
1011 the only heirs of said Sy Quia deceased, and as such are the owners and entitled to the possession of all said property, and the said rents and profits thereof; and that the defendants have been holding said property and rents and profits thereof for the use and benefit of the plaintiffs; and for such other relief as may seem just and equitable.

The defendants answering allege that the said Sy Quia was an infidel Chin-man, resident in the Philippine Islands long before the



year 1852, in which year he was converted to Christianity and was baptized, and on the 9th day of June, 1853, was joined in lawful marriage to Petronila Encarnacion, a native woman of the Philippine Islands, and that the two thus joined continuously maintained their conjugal domicile in the Philippine Islands until the death of said Sy Quia on January 9th, 1894; that at the time of the said marriage said Sy Quia had no property and Petronila Encarnacion brought a small amount to the marriage contract, and that after the marriage by their labor and industry they accumulated a great amount of property; that of the marriage were born three male children name- Gregorio, Pedro and Juan and two female children named Apolinaria and Maria; that Apolinaria died single in 1900, leaving as her only heir her mother, the said Petronila, and that Maria died before her father Sy Quia, leaving the defendant Generoso Mendoza as her sole heir; that Sy Quia died intestate in the year 1894, and the children as aforesaid were declared his heirs under the then existing law, and as such entered upon their inheritance from Sy Quia, and have been in quiet and peaceful possession continuously since and generally deny all the other allegations of the complaint;

The defendant Petronila Encarnacion died after the commencement of the action, and the administrator of her estate, the 1012 defendant Pedro Sy Quia, was substituted as defendant in her place.

The plaintiff Sy Jui Niu, died after the commencement of this action, and the guardian of her only child Sian Han, Mr. C. W. O'Brien, was substituted as plaintiff in her behalf.

Mr. W. H. Bishop and Mr. C. W. O'Brien appeared in behalf of the plaintiff; Sres. Rosado, Sanz and Opisso appeared for the defendants Pedro Sy Quia and Juan Sy Quia; Sres. Ledesma, Sumulong and Quintos appeared for the defendant Gregorio Sy Quia; and Sr. Mariano Legaspi for the defendant Gerenoso Mendoza Sy Quia.

A great mass of testimony has been presented, taken before this Court, and upon commission in China and other places in the Philippine Islands.

There is practically no conflict in the evidence received except such as possible may be drawn from inference, and I find the following facts undoubtedly established:

That Sy Quia, however his name may have been pronounced or spelled by different persons (to me as spoken by Chinese witnesses appearing before me the name sounded as though it should be spelled Sy Quienh), was born in China in 1822, a subject of the Chinese Empire;

That when about 12 years of age he came to the Philippine Islands and worked for his uncle about the age of 25 years, mostly in Manila;

That when about 25 years of age he returned to China and in the year 1847 was lawfully married to Yap Pua Niu, a Chinese woman, under the laws and customs of China;

That he remained about 4 years in China and two male children were born of that marriage named Sy Bi (Mi) Bo and Sy Bi (Mi) Git;

That the said Sy Bi (Mi) Bo was lawfully married to Ho Gim Niu, a Chinese woman, about 1870, and from their marriage two children were born, one male who died in infancy, and the other a female named Sy Jui Niu, originally one of the plaintiffs in this case who has since its commencement died leaving her only child and heir, Sian Han, as plaintiff in her stead, represented by her guardian, C. W. O'Brien; and that when the male child of said Sy Bi (Mi) Bo died he immediately adopted in accordance with the laws and customs of China, a Chinese male infant named Sy Yoc Chay, one of the plaintiffs herein, who still survives and resides in Manila, and has done so for a long time;

That the said Sy Bi (Mi) Git was lawfully married about 1871 in China to a Chinese woman named Yap Su Niu, and from such marriage there was born one male child named Sy Yoc Leng and one female child named Sy Chua Niu, both plaintiffs in this action;

That said Sy Quia after returning to China from the Philippine Islands, as before stated, and remaining there about 4 years, came again to the Philippine Islands and went to Vigan to reside, and was there converted to and adopted the Christian religion, and was baptized under the rites of the Holy Roman Catholic Church, in 1852, and prefixed to his name the name Vicente Ruperto Romero, and later was married under the name of Vicente Romero Sy Quia, under the rites of the same Church in 1853, to the defendant Petronila Encarnacion now represented by the Administrator of her estate;

That from this marriage there were born three male children named respectively Gregorio Sy Quia, Pedro Sy Quia, and Juan Sy Quia, defendants herein, and two female children named respectively Apolinaria and Maria, all of which children were legally recognized and treated by Sy Quia as his children;

1014 That Apolonia died single, intestate, in the year 1900 without issue and leaving said Petronila Encarnacion, her mother formerly defendant herein, as her sole heir;

That the said Maria died intestate before her father Vicente Romero Sy Quia, leaving one male child named Generoso Mendoza her sole heir, who is one of the defendants herein;

That shortly after the marriage of Vicente Romero Sy Quia and Petronila Encarnacion they came from Vigan to Manila to reside, and while so residing here the said Sy Quia's Chinese wife, Yap Pua Niu, came to Manila and resided for a time, and while she did not live with Sy Quia in the same house he provided and cared for her as his wife and she was so treated;

That both Vicente Romero Sy Quia and Petronila Encarnacion, while living, recognized Sy Yoc Chay and Sy Yoc Leng, while they resided in Manila, as grandchildren of Vicente Romero Sy Quia and provided for them as such; Petronila Encarnacion delivering to Sy Yoc Lieng on two different occasions money amounting to 7,000 pesos, and Vicente Romero Sy Quia seems to have recognized the other plaintiffs, Sy Jui Niu and Sy Chua Niu, who lived in China, as his grandchildren;

That when Vicente Romero Sy Quia and Petronila Encarnacion were married, Sy Quia had some property, and later Petronila Encarnacion appears to have brought into the marriage contract 5,000 pesos;

That when Vicente Romero Sy Quia died in 1894 he and Petronila Encarnacion had accumulated a large property, and the defendants other than Petronila Encarnacion were declared heirs to his interest in the property on January 26th, 1894;

That Petronila Encarnacion continued the administration of the whole property until August 3rd, 1900, when it was distributed under order of the court to herself and the other defendants 1015 herein as heirs thereto, any rights which the plaintiffs herein might have had therein being overlooked or disregarded, and the defendants never recognized the plaintiffs as the legal heirs of Vicente Romero Sy Quia;

That Sy Bi (Mi) Bo died before his father, Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, his adopted son Sy Yoe Chay, one of the plaintiffs herein, and Sy Jui Niu, who has since died leaving her only child Sian Han as her sole heir, one of the plaintiffs herein represented by C. W. O'Brien her guardian;

That Sy Bi (Mi) Git died before his father Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, two of the plaintiffs herein, Sy Yoe Leng and Sy Chua Niu;

That Vicente Romero Sy Quia died on January 9th, 1894, leaving as his descendants by his Chinese wife the persons hereinbefore described, and his children by Petronila Encarnacion as hereinbefore described;

That Petronila Encarnacion died on June 6th, 1906, after the commencement of this action, and the administrator of her estate Pedro Sy Quia was substituted as defendant in her behalf;

I have been unable to find any law statute or otherwise which is entirely or precisely applicable or adoptable to all the conditions and facts existing in this case, and must resort to what may be new rules in order to reach conclusions which will, not work and injustice to the persons interested.

I am unable to concede plaintiffs' claim, presented in argument, that Sy Quia at the time of his death was a subject of the Empire of China, so that his property would have to be distributed in accordance with the laws of China exclusively, under the conditions existing, the property accumulated by him here is 1016 subject to distribution under the laws existing here, taking into consideration certain laws of China in relation to the rights of the heirs living there.

I am unable to concede defendants' claim, made in argument, that Sy Quia while not believing in polygamy still believed in the right of concubinage, and for that reason his marriage contracted in China was polygamous, and against good morals and can not be recognized here.

On the contrary marriages contracted in a foreign country under the laws and customs of that country are held legal and binding here unless one or both of the contracting parties had left here and gone to a foreign country to contract marriage there, in order to avoid provisions of the law here, or for other reasons were incapacitated to contracted to contract marriage.

The conclusion is that Sy Quia's marriage in China was lawful, and the issue of that marriage are legal heirs to his estate;

That if he had married Petronila Encarnacion in accordance with the customs of China, after his marriage to his Chinese wife, the marriage would have been lawful there, and she would have become his concubine and as such entitled to certain rights and her children by him would have been heirs to his estate, but his marriage to her here in the Philippine Islands was lawful, and her children by him could become heirs to his estate only upon having been legally recognized by him as his children;

That Sy Quia and Petronila Encarnacion having entered into a marriage contract, which she must have known was unlawful, though perhaps believing that it was permissible and which she believed to be lawful, thinking him to be an unmarried man, did not

fully attain the rights as to each other as man and wife, so  
1017 that the property which they jointly earned was gains under the marriage contract, and so that upon the death of either the other would have usufructory rights in the property of the one deceased, but the marriage contract must be treated as a partnership agreement between them. Sy Quia would not be entitled to all the property earned by both while living together, as perhaps he would if no marriage ceremony had been performed and business had been transacted and property obtained in his name;

That having entered upon a life together as partners, with probably equal capital, and each giving service they would be entitled to an equal division of the proceeds of such partnership, and their labor and all such proceeds being in the Philippine Islands, when Sy Quia died, Petronila Encarnacion was entitled to one-half of all the property of which he died seized here;

That because the marriage ceremony between Vicente Romero Sy Quia and Petronila Encarnacion was not lawful Petronila Encarnacion may not be deprived of her share of the gains made under the marriage, such as it was, while it existed, neither could Vicente Romero Sy Quia, nor can his heirs now, claim all the gains made under the contract between Vicente Romero Sy Quia and Petronila Encarnacion, whatever it may be;

That Vicente Romero Sy Quia having entered into an unlawful marriage here after his marriage in China could not deprive the children of that marriage in China of their rights to his estate even here in the Philippine Islands;

That the living heirs to the estate of Vicente Romero Sy Quia, consisting of one half of the property of which he died seized, are Sy Yoc Chay and Sian Han, respectively his grandson by his son Sy

Bi (Mi) Bo and his great grand daughter through his son Sy  
1018 Bi (Mi) Bo; and granddaughter Sy Jui Niu, and Sy Yoc Leng and Sy Chua Niu his grandchildren through his son Sy Bi (Mi) Git, as his legal descendants; and Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, his sons, Gerencoso Mendoza Sy Quia his grandson through his daughter Maria; and the heirs of Petronila Encarnacion as heirs of Apolinaria Sy Quia his daughter, as his natural

descendants legally recognized; and that the heirs of Petronila Encarnacion are entitled to the other half of that estate;

That the shares of each in the whole estate are: the plaintiffs Sy Yoc Lieng 1/18th, Sy Yoc Chay 1/18th, Sy Chua Niu 1/18th, C. W. O'Brien as guardian of Sian Han 1/18th, and the defendants Pedro Sy Quia 1/18th, Juan Sy Quia 1/18th, Gregorio Sy Quia 1/18th, Gerenoso Mendoza y Sy Quia 1/18th, and the heirs of Petronila Encarnacion, represented by Pedro Sy Quia the administrator of her estate, 10/18th;

That Petronila Encarnacion having administered the whole estate of which Vicente Romero Sy Quia died seized from the time of his death until the distribution thereof in 1900, as hereinbefore set forth, the estate so distributed must be taken and considered as such whole estate;

That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Gerenoso Mendoza Sy Quia and Petronila Encarnacion, now represented by her administrator Pedro Sy Quia, having taken possession in individual parts of the whole estate, and the whole estate being unknown to the plaintiffs, the plaintiffs are entitled to a disclosure from said defendants of all the property received by them and an accounting of the rents and profits thereof since it was so received;

That — appears that the plaintiffs have an interest in the property which is the subject matter of the action, and  
1019 that the property is in danger of being lost, one of the defendants, having a portion of the property in his possession, having been declared a spendthrift and a guardian appointed for him, it appears to the court that the appointment of a receiver is the most convenient and feasible means of preserving and administering the property which is the subject matter of litigation.

Let judgment be entered declaring that the plaintiffs Sy Yoc Leng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, and the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Gerenoso Mendoza Sy Quia, and the heirs of Petronila Encarnacion, deceased, represented by one of the defendants Pedro Sy Quia as administrator of her estate, are joint heirs to the estate of Vicente Romero Sy Quia, deceased, consisting of one-half of the whole estate distributed under the judicial order of the Court of 1st. Instance of the District of Quiapo under date of August 3rd, 1900, in the following ratio:

Sy Yoc Lieng 1/9th, Sy Yoc Chay 1/9th, Sy Chua Niu 1/9th, C. W. O'Brien as guardian of Sian Han 1/9th, Pedro Sy Quia 1/9th, Juan Sy Quia 1/9th, Gregorio Sy Quia 1/9th, Gerenoso Mendoza y Sy Quia 1/9th, and the heirs of Petronila Encarnacion represented by Pedro Sy Quia as the administrator of her estate 1/9th; and that the heirs of Petronila Encarnacion, represented by the administrator of her estate Pedro Sy Quia, are jointly the owners of and entitled to the possession of the other half of the estate of which Vicente Romero Sy Quia died seized;

That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia and Gerenoso Mendoza Sy Quia and Pedro Sy Quia

as administrator of the estate of Petronila Encarnacion and representing her heirs, make disclosure of all the property distributed to them respectively under the said judicial order dated August 3rd, 1900;

That the said defendants each render an accounting of the rents and profits of all the property received by them respectively under said judicial order, since the said property was delivered to them, provided that if it shall appear upon disclosure as before adjudged the property distributed to Petronila Encarnacion in her own right shall not exceed one-half of the whole of the estate of which Vicente Romero Sy Quia died seized, then accounting in her behalf for the rents and profits will not be necessary.

That a receiver be appointed to be hereafter named upon giving bond to be hereafter fixed, to take possession of the whole estate disclosed as hereinbefore required, provided that if upon the disclosure it shall appear that the property distributed to Petronila Encarnacion in her own right shall not exceed one-half of the whole estate of which Vicente Romero Sy Quia died seized, then that he shall take possession of, as such receiver, only the other half distributed to the other persons making disclosure.

No costs will be taxed.

Manila, P. I., February 26th, 1908.

(Signed)

A. S. CROSSFIELD, Judge.

After being notified the plaintiffs excepted to the decision in proper form, and on the 4th day of March presented the following motions for the modification of the sentence.

(Heading *Entitled Omitted*)

1021 *Exception to Conclusions of Law and Motion for Modification of Decision.*

Come now the plaintiffs by W. H. Bishop and C. W. O'Brien, their attorneys, and renewing their exception to the decision heretofore rendered upon the 26th day of February, 1908, do hereby specially except to the conclusions of law made in said decision of February 26, 1908, and hereby move the court to modify said judgment, and conclusions of law by making the same conform to the findings of fact in the following particulars:

(a) That judgment be entered declaring the plaintiffs Sy Yoc Lieng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, as the sole and only heirs of Vicente Romero Sy Quia, deceased.

(b) That the said plaintiffs Sy Yoc Lieng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, be entitled to receive the whole of the estate left by the deceased Vicente Romero Sy Quia, and distributed under the judicial order of the Court of First Instance of Manila, under date of August 3rd, 1900.

(c) That Petronila Encarnacion, deceased, her administrator, her



children, and heirs be adjudged and decreed to have no interest in the case of Vicente Romero Sy Quia, deceased.

(d) That Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia, Pedro Sy Quia as administrator of the estate of Petronila Encarnacion, deceased, and Pedro Sy Quia, as guardian of Generoso Mendoza Sy Quia, a prodigal, be declared and adjudged not heirs of Vicente Romero Sy Quia, deceased, and as having no interest in the estate of said deceased.

(e) That the receiver to be appointed under said decision of February 26, 1908, in the above-entitled action, be authorized and required to take possession of all the property left by the deceased Vicente Romero Sy Quia, and especially of the property distributed under the judicial order of August 3rd, 1900, and the rents and profits thereof.

(f) That said judgment be further modified by allowing said plaintiffs their costs in the above-entitled action; and an accounting for all of said property.

March 3, 1908.

(Signed)

(Signed)

C. W. O'BRIEN,

W. H. BISHOP,

*Attorneys for Plaintiffs.*

Said motion for the modification of the decision *were* denied on the 7th day of March, 1908, and at the same time the plaintiffs excepted thereto.

And the plaintiffs having presented this Bill of Exceptions respectfully pray the court that the same be approved and sent to the Supreme Court.

Manila, P. I., 26th of March, 1908.

(Signed)

(Signed)

W. H. BISHOP,

C. W. O'BRIEN,

*Attorneys for Plaintiffs.*

Received copy this 26th of March, 1908.

1023

(Headings and Title Omitted.)

I hereby certify that the foregoing Bill of Exceptions is correct and contains all the essential parts for a clear understanding of all the errors assigned. Executions of the judgment shall not be stayed as to disclosure and accounting ordered.

Manila, March 28, 1908.

(Sgd.)

A. S. CROSSFIELD.

PHILIPPINE ISLANDS,

*Manila, ss:*

The undersigned certifies that the foregoing bill of Exceptions, composed of 14 pages, is the original Bill of Exceptions presented by the appellant and approved by this court.



In faith whereof I sign these presents, in Manila, this 20 day of April, 1908.

(Sgd.)

J. McMICKING, *Clerk.*

Filing stamp.

April 21, 1908.

1024 UNITED STATES OF AMERICA,  
*Philippine Islands:*

In the Court of First Instance for the City of Manila.

4164.

SY JOC LIENG, SY YOC CHAY, SY JUINIU and SY CHUANIU,  
Plaintiffs,

vs.

PETRONILA ENCARNACIÓN, GREGORIO SY QUIA, PEDRO SY QUIA,  
JUAN SY QUIA and GENEROSO MENDOZA SY QUIA, Defendants.

*Bill of Exceptions.*

Bt it known to all persons by these presents, that during the period of sessions comprehended between the 4th of December 1905 and the 6th of March 1908 the following proceedings were had in the Court of First Instance of Manila.

On December 4th, 1905, the following complaint in the above entitled cause was filed:

(Heading and Title Omitted.)

*Complaint.*

Plaintiffs allege and complain:

I.

That on or about the year 1823 one Sy Quia, thereafter known in the Philippine Islands under the name of Vicente Romero Sy Quia, was born in China.

II.

That on or about the year 1847 the said Sy Quia, also known as Vicente Romero Sy Quia, was married in the City of Amoy China, to one Yap Buanju as hereinafter alleged, and thereafter the said Sy Quia otherwise known as Vicente Romero Sy Quia and the said Yap Buanju were and continued to be husband and wife.

III.

1025 That during the marriage of the said Sy Quia and the said Yap Buanju there was born to the said marriage two male children, to wit: Sy Bibo and Sy Biguel, who were the

only legitimate children and heirs at law of the said Sy Quia, otherwise known as Vicente Romero Sy Quia.

#### IV.

That on or about the year 1882 the said Sy Bibo died intestate in China leaving as his only legitimate children and heirs at law plaintiffs Sy Yoc Chay and Sy Juiniu, and the said plaintiffs Sy Yoc Chay and Sy Juiniu ever since the death of the said Sy Bibo became and are now the only legitimate surviving children and heirs at law of the said Sy Bibo, deceased.

#### V.

That on or about the year 1880 the said Sy Biguel, the other legitimate child and heir at law of the said Sy Quia and Yap Buanju, died intestate in China leaving as his only surviving children and heirs at law plaintiffs Sy Joe Lieng and Sy Chua Niu, who since the death of the said Sy Biguel have been and are now the only legitimate surviving children and heirs at law of the said Sy Biguel, deceased.

#### VI.

That on or about the year 1891 the said Yap Buanju wife of the said Sy Quia, as hereinbefore alleged, died intestate in China leaving surviving her, her husband, the said Sy Quia, otherwise known as Vicente Romero Sy Quia and plaintiffs herein her only grandchildren and who ever since her said death have been and are now her only surviving legitimate heirs at law.

#### VII.

That on or about the year 1894 the said Sy Quia, otherwise known as Vicente Romero Sy Quia, died intestate in the City of Manila, Philippine Islands, leaving surviving him plaintiffs herein his grandchildren, who at the time of his death became ever since have been and are now his only legitimate descendants and heirs at law.

1026

#### VIII.

That during his lifetime the said Vicente Romero Sy Quia acquired a large estate, consisting of real and personal property situated in the Philippine Islands, a great part of which was and is situated in the City of Manila, of an approximate value of one million pesos, Insular Currency.

#### IX.

That immediately after the death of the said Sy Quia otherwise known as Vicente Romero Sy Quia, the defendants and each of them unlawfully, without right and in the absence of the plaintiffs and each of them, took possession of all and every part of the real and personal property of the said Sy Quia otherwise known as Vicente Romero Sy Quia, deceased, and said defendants and each

of them have as aforesaid ever since been managing and administering the said real and personal estate of the said Sy Quia, assuming acts of ownership and dominion over said estate of the said Sy Quia, deceased.

### X.

That since the death of the said Sy Quia, otherwise known as Vicente Romero Sy Quia, as hereinbefore alleged, the said defendants and each of them have converted and are converting part of the estate of the said Sy Quia to their and each of their own use and benefit, and have converted a great part of said estate into other real and personal property unknown to plaintiffs and to each of them, and said defendants and each of them are now in possession of such property so converted from the real and personal property left by the said Sy Quia as aforesaid, exercising acts of ownership and dominion thereon.

### XI.

That plaintiffs and each of them have been unable to discover and do not know each and every piece or parcel of real and personal property left by the said Sy Quia, otherwise known as Vicente Romero Sy Quia, at the time of his death, and the said plaintiffs and each of them have been further unable to discover and do not know each and every piece and parcel of real and personal property so converted as hereinbefore alleged by defendants and each of them, except the property described in the document hereto attached, marked Plaintiffs' Exhibit "A" and made a part of this complaint, and plaintiffs further allege that the property described in plaintiffs' exhibit "A" is part of the real and personal estate left by the said Sy Quia, otherwise known as Vicente Romero Sy Quia, deceased, at the time of his death, and part of the real and personal property converted by defendants and each of them from the property of the said estate of the said Sy Quia, deceased, since the time of his death; that defendants and each of them are in the custody, possession and control of all the deeds, documents, contracts, books and papers evidencing the title to and conversion of the real and personal properties as hereinbefore alleged and the descriptions thereof, which said title, conversions and descriptions can not be proven except by the oath of the defendants and of each of them.

### XII.

Plaintiffs are informed and believe that the real and personal property belonging to the estate of the said Sy Quia otherwise known as Vicente Romero Sy Quia, and in the possession and control of the defendants and each of them as hereinbefore alleged is of the approximate value of one million pesos, Insular Currency.

### XIII.

That Plaintiffs are the only legitimate surviving descendants and heirs at law of the said Sy Quia, otherwise known as Vicente Romero Sy Quia, and ever since his death have been and are now the only

legitimate owners and entitled to the possession of all the real and personal property of the estate of the said Sy Quia deceased,  
 1028 and of the real and personal property converted as hereinbefore alleged from the properties of the said estate.

#### XIV.

That ever since the death of the said Sy Quia deceased defendants and each of them have been and are now appropriating to their own use and benefit all the rents and profits of the properties of the estate of the said Sy Quia, deceased, belonging to plaintiffs and to each of them, making it impossible for plaintiffs to discover the said rents and profits for the protection of plaintiffs' interests, which said rents and profits amount to many thousands of pesos insular currency per month, the true amount of which is unknown to plaintiffs and to each of them, and which said rents and profits are in great danger of being lost, removed and materially injured to the irreparable injury and prejudice of plaintiffs and of each of them unless a receiver be appointed to guard and preserve them.

#### XV.

That the real and personal property of the estate of Sy Quia, deceased, and belonging to plaintiffs herein has been and is being sold, incumbered and converted by the defendants and each of them and there is danger of the greater part of said property being lost, removed and materially injured to the irreparable injury and prejudice of the plaintiffs and each of them unless a receiver is appointed to guard and preserve it.

#### XVI.

That in order to protect the interests of plaintiffs herein and to determine the amount and value of the real and personal property belonging to the estate of the said Sy Quia, deceased, at the time of his death, and the amount and value of the real and personal property subsequently converted by defendants and each of them as hereinbefore alleged and the amount and value of the rents and profits of the whole of said estate appropriated by defendants and each of them to their and each of their own use, as hereinbefore  
 1029 alleged, it is necessary that the said defendants and each of them be required to give a detailed accounting of the real and personal property and of the rents and profits thereinbefore mentioned and that discovery on oath be obtained from them and from each of them of the whole and every part of the said real and personal property of the said estate and of the rents and profits now in their possession, control and custody and of the rents and profits converted and appropriated by them and each of them.

Wherefore plaintiffs and each of them pray:

(a) That discovery be obtained from defendants and each of them on oath and said defendants and each of them be ordered to make a complete and detailed statement on oath before this Court

of all of the real and personal property left by the said Sy Quia, at the time of his death, and of their management, administration, custody, control, conversion and disposition of the said real and personal property since the death of the said Sy Quia, deceased, and of the conversion thereof and of the whole and every part of the rents and profits of the said original and of the said converted estate.

(b) That a detailed accounting be ordered and had from said defendants and each of them of all of said original estate and of all of said converted estate, and of the administration, conversion, and disposition thereof by said defendants and by each of them and of the rents and profits as aforesaid.

(c) That a receiver be appointed by this Court, upon giving such bond as the Court may deem necessary and just, to take charge and administer the whole of said original and converted estate during the pendency of this action.

(d) That it be adjudged and decreed that plaintiffs and each of them have been ever since the death of the said Sy Quia otherwise known as Vicente Romero Sy Quia, deceased, and are now his only surviving legitimate descendants and heirs at law, and that they and each of them have been ever since the death of the said Sy Quia as aforesaid and are now the only legitimate owners of the whole and every part of the real and personal property left by the said Sy Quia deceased and of the whole and every part of the real and personal property converted by the defendants and each of them from any part of the said estate left by the said Sy Quia at the time of his death, and that plaintiffs and each of them are entitled to the whole and every part of the property hereinbefore mentioned and to the possession thereof and to the rents and profits therefrom as against the defendants herein and each of them.

(e) That it be adjudged and decreed that defendants and each of them have no right, title and interests in the real and personal property hereinbefore mentioned nor to any part thereof nor to the rents and profits hereinbefore mentioned.

(f) That it be adjudged and decreed that defendants and each of them have been holding and do now hold the whole and every part of the original and converted estate hereinbefore alleged, and the rents and profits hereinbefore mentioned in trust for the use and benefit of the plaintiffs and of each of them.

(g) For such other and further relief as the Court may deem equitable and just.

(h) For the costs of this action.

(Sgd.)

BISHOP & O'BRIEN,  
Attorneys for Plaintiffs.

After having been properly summoned the defendants Pedro Sy Quia, Petronila Encarnación, Juan Sy Quia, and Generoso Mendoza Sy Quia appeared the last named on the 23rd day of December, 1905, and the others on the 26th day of December of the same year. The defendants Pedro Sy Quia, Petronila Encarnación, and Juan

Sy Quia on the 4th day of January, 1906, presented the following answer:

(Heading and Title Omitted)

*Answer.*

The defendants Petronila Encarnación, Pedro Sy Quia and  
1031 Juan Sy Quia, answering to the plaintiffs' complaint, state:

I.

That they deny specifically the 1st, 2nd, 3rd, 4th, 5th and 6th paragraphs of plaintiffs' complaint.

II.

That they generally deny each and every one of the 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th and 16th paragraphs of the same complaint, with the exception of that which in this answer is admitted expressly as true.

As a special defense and in opposition to the complaint of the plaintiffs, these defendants answering, state:

I.

That prior to the year 1852 Mr. Vicente Ruperto Romero Sy Quia, was a non-Christian Chinaman, known only by the name of Sy Quia, residing in the Philippine Islands for many years prior to the said year 1852.

II.

That on the 11 of June, 1852, the said non-Christian Chinaman Sy Quia, was converted to Christianity, receiving the baptismal waters in the parish of San Vicente Ferrer, Province of Ilocos Sur, Philippine Islands, and the names of Vicente Ruperto Romero Sy Quia. Copy of the entry of baptism, marked Exhibit "1" for the defendants it attached to, and made an integral part of this answer.

III.

That on the 9th of June, 1853, in the City of Fernandina de Vigan, Philippine Islands, the Chinaman converted to Christianity, Vicente Ruperto Romero Sy Quia, contracted a legitimate canonical marriage in accordance with the laws then in force in the Philippine Islands, with the defendant Petronila Encarnación, indian, native of Vigan, Province of Ilocos Sur, Philippine Islands. A copy of  
1032 the entry of the marriage of the said Vicente Ruperto Romero Sy Quia with the defendant Petronila Encarnación, marked Exhibit "2" for the defendants is attached to and made an integral part of this answer.



## IV.

That the spouses Don Vicente Ruperto Romero Sy Quia and Doña Petronila Encarnación established and fixed their residence and conjugal domicile in the Philippine Islands where as a matter of fact they maintained their conjugal domicile from the celebration of the marriage on the 9th of June, 1853, until the dissolution of the same by the death of Don Vicente Ruperto Romero Sy Quia which occurred on the 9th day of January, 1894.

## V.

That at the time of the celebration of this marriage Don Vicente Ruperto Romero Sy Quia had no property of whatever class and therefore brought nothing into the marriage with Doña Petronila Encarnación, while she brought into the marriage a small capital which was the base of the larger capital acquired later by the said spouses, through their work and industry, and through the work and industry of the children that they had and who are mentioned later.

## VI.

That during the legitimate canonical marriage celebrated or contracted by Don Vicente Ruperto Romero Sy Quia with Doña Petronila Encarnación, as alleged, five legitimate children were born, named Doña Apolonia, Doña María, Don Gregorio, Don Pedro, and Don Juan, who were baptized and enjoyed since their birth, and enjoy at present the state of legitimate children of legitimate marriage of Don Vicente Ruperto Romero Sy Quia and Doña Petronila Encarnación. Copies of the baptismal entries of these children are attached and marked Exhibits "3," "4," "5," "6" and "7" for the defendants who answer and are made an integral part of this answer.

1033

## VII.

That on the 9th of January, 1894, in this City of Manila, Don Vicente Ruperto Romero Sy Quia, legal husband of the defendant Doña Petronila Encarnación and legal father of the defendants Pedro and Juan Sy Quia and their brothers and sisters, died intestate, and after the legalities in accordance with the legislation then in force, by order of the Court of First Instance of Quiapo, of the 26th of January, 1894, his living children, Apolinaria, Gregorio, Pedro and Juan, born as alleged in legitimate matrimony with Doña Petronila Encarnación, and his grandchild, Generoso Mendoza, in representation of his mother María Romero Sy Quia, deceased, were judicially declared his heirs of the intestate. A copy of this order of the declaration of heirs is attached to, and marked Exhibit "8," and is made an integral part of this answer.

## VIII.

That on the 1st of May, 1900, Apolinaria Romero Sy Quia, judicially declared an heir of her father Don Vicente Ruperto Romero



Sy Quia, died, single and intestate, leaving her mother, Doña Petronila Encarnación, as her only legitimate and universal heir.

IX.

That since the 9th of January, 1894, in which the death of Don Vicente Ruperto Romero Sy Quia occurred, the defendants have been in quiet, public, peaceful and uninterrupted possession to this date and in the capacity of owners in good faith and just title of all the property which constitutes the inheritance of the said deceased Vicente Ruperto Romero Sy Quia, without having been molested by the plaintiffs or any of them, notwithstanding that they have been present in the Philippine Islands.

X.

That all the property inventoried in the partitional distribution of the property left by the deceased Vicente Ruperto  
1034 Romero Sy Quia were acquired by him after the year 1853, in which year he contracted marriage with the defendant Petronila Encarnación, that much of the real property which appears in the inventory of distribution was acquired by Doña Petronila Encarnación after the death of her husband; and that in the writings of adquisition of much of the real property acquired during the lifetime of Don Vicente Ruperto Romero Sy Quia. Doña Petronila Encarnación appears also as purchaser.

The defendants Doña Petronila Encarnación, Don Pedro Sy Quia and Don Juan Sy Quia, pray the court that they be absolved from the complaint and with costs against the plaintiffs.

They also pray for all other relief which is deemed proper in justice and equity.

Manila, 4 of January, 1906.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received copy January 4, 1906.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys, for Plaintiffs.*

The 12th day of January, 1906, the defendant Gregorio Sy Quia after having appeared the 9th day of January of the same year, presented the following answer:

(Heading and Title Omitted.)

The defendant Gregorio Sy Quia, by means of his Attorneys in answer to the complaint says:

I.

That he denies the truth of the facts alleged in said complaint, each and every one of them.

## II.

Specifically denies that the deceased Vicente Romero Sy Quia, whose true and complete name is Vicente Ruperto Romero Sy Quia, ever contracted marriage in the City of Amoy, China, with one Yap Buanjú in or about the year 1847, as is alleged in the 2nd paragraph of the complaint, or at any other time prior to or after the said year.

## III.

And at the same time specifically denies that those named Sy Bibo and Sy Biguel were children and legitimate heirs of the deceased Vicente Ruperto Romero Sy Quia, as is alleged in the 3rd paragraph of the complaint.

## IV.

Denies in the same manner that the plaintiffs named Sy-Joc-Lieng, Sy-Joc-Chay, Sy-Jumiú and Sy-Chuaníu were grandchildren and legitimate heirs of the deceased Vicente Ruperto Romero Sy Quia. As grounds for a special defense also alleges:

## V.

That the deceased Vicente Ruperto Romero Sy Quia, then known only by the name Sy Quia, many years prior to the year 1852, and being a non-Christian Chinese subject, came and definitely established his residence and domicile in the Philippine Islands subjecting himself to the laws then in force here.

## VI.

That in the said year 1852, the said Sy Quia was converted to catholicism and as a matter of fact was baptized, on the 11 day of June of said year, in the Parish of San Vicente Ferrer, province of Ilocos Sur, P. I., receiving the names of Vicente Ruperto Romero Sy Quia, as appears in the document, the copy of which is attached to this writing and is made a part of the same and marked Exhibit "A".

## VII.

On the 9th of June 1853, in the City of Vigan province of Ilocos Sur, P. I., the said Vicente Ruperto Romero Sy Quia contracted legitimate marriage with the defendant Petronila Encarnación, Filipina native of the City of Vigan, Province of Ilocos Sur, P. I., in accordance with the rites and under the beliefs of the Roman Catholic Church, and in compliance with the laws then in force in the Philippine Islands. A copy of the canonical entry of the said marriage is attached and made a part of this answer marked Exhibit "B".

## VIII.

The spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnación established and permanently fixed their residence and

conjugal domicile in the Philippine Islands after their marriage, and as a matter of fact constantly continued domiciled and residing in the Philippine Islands until the 9 day of January, 1894, when the said Vicente Ruperto Romero Sy Quia died intestate in the City of Manila.

#### IX.

During their marriage the spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnación had five children, to wit: Apolinaria, María, Gregorio, Pedro and Juan, all surnamed Sy Quia, being the said Gregorio the defendant who makes this answer. A literal copy of the canonical entry of baptism of defendant Gregorio Sy Quia is attached to and made a part of this answer, marking it Exhibit "C".

#### X.

The deceased Vicente Ruperto Romero Sy Quia did not bring any property of whatever class into the conjugal society, but his wife Petronila Encarnación brought to the same a small capital in currency consisting of the sum of five thousand (5,000) pesos, with which and by means of the work and industry of the said spouses in the beginning and by the work and industry of the children later, acquired the wealth of property existing at the time of the death of the said Vicente Ruperto Romero Sy Quia.

1037

#### XI.

The property left by the said Vicente Ruperto Romero Sy Quia were acquired and were at the time of his death and are now in the Philippine Islands.

#### XII.

By order of the 26 of January, 1894, dictated by the Court of First Instance of Quiapo, the living children of the deceased Vicente Ruperto Romero Sy Quia, Apolinaria, Gregorio, Pedro and Juan, and his grandchild Generoso Mendoza in representation of his deceased mother María Romero Sy Quia, were declared the only heirs of the intestate. An exact copy of the said order, marked Exhibit "D" is attached to and made a part of this answer.

#### XIII.

On the 1st of May, 1900, Apolinaria Romero Sy Quia died single and intestate, leaving as her only legitimate and universal heir her mother Doña Petronila Encarnación.

#### XIV.

From the said date the 26th of January, 1894, the defendants in the capacity of only legitimate heirs of the deceased Vicente Ruperto Romero Sy Quia, took possession of the property left by him, and enjoyed said possession with just title and good faith, in the capacity of only heirs, publicly constantly, quietly, and peacefully until the plaintiffs presented their complaint before this court.

## XV.

The plaintiffs in this cause resided in the Philippine Islands at the time of the death of Vicente Ruperto Romero Sy Quia, and knew the fact of the death of the said Vicente Ruperto Romero Sy Quia.

## XVI.

1038 The plaintiffs at the time had knowledge and advice that the defendants had asked and received the declaration of heirs in their favor and which is referred to in paragraph X of this writing.

## XVII.

That at no time were the plaintiffs or their respective parents recognized or considered as descendants, heirs or relatives by the deceased Vicente Ruperto Romero Sy Quia.

Therefore the defendant Gregorio Sy Quia, by means of his attorneys, prays the court to dictate sentence declaring that the plaintiffs have no interest or right to the inheritance of Vicente Ruperto Romero Sy Quia, and that the defendants are the only legitimate heirs of the same, with costs against the plaintiffs.

Manila, P. I., 6 of January, 1906.

(Sgd.)

LEDESMA, SUMULONG & QUINTOS,  
*Attorneys for the Defendant Gregorio Sy Quia.*

We received copy of this writing this 12 day of January, 1906.

(Sgd.) BISHOP & O'BRIEN,

*Attorneys for the Plaintiffs.*

The 18th day of January, 1906, the defendant Generoso Mendoza Sy Quia presented the following answer:

The defendant Generoso Mendoza answering to the complaint on file says:

I. That he denies each and every allegation contained in 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th and 16th paragraphs of the complaint.

1039 II. That he specifically denies that the deceased Vicente Romero Sy Quia, whose baptismal name is Vicente Ruperto Romero Sy Quia, contracted marriage in the City of Amoy, Chinese Empire, with the Yap Buanju in or about the year 1847, as is alleged by the plaintiffs in the 2nd paragraph of their complaint, or at any other time before or after the said year.

III. He also specifically denies that those named by Sy Bibo and Sy Biguel were children and legitimate heirs of the said deceased Vicente Ruperto Romero Sy Quia, as is alleged by said plaintiffs in the 3rd paragraph of their complaint.

IV. He denies in the same sense that the plaintiffs mentioned, Sy Joe Lieng, Sy Yoc Chay, Sy Juiniu and Sy Chuaniu were descendants and legitimate heirs of the said deceased Vicente Ruperto Romero Sy Quia.

And as a special defense the defendant Generoso Mendoza Sy Quia, alleges:

(a) That the deceased Vicente Ruperto Romero Sy Quia, then simply known by the name Sy Quia, many years prior to the year 1852 and being a non-Christian Chinese emigrant, came and established his residence and domicile in the Philippines, subjecting himself to the laws then in force here.

(b) That in the said year 1852, the said Sy Quia was converted to Christianity, being baptized in the Parish of the town of San Vicente Ferrer, Ilocos Sur, Philippine Islands, receiving the names of Vicente Ruperto Romero Sy Quia, as appears in the canonical entry of the baptism marked Exhibit "1" and "A" of the other defendants and which the defendant Generoso Mendoza Sy Quia makes his and which is to be considered as an integral part of this answer.

(c) That on the 9 of June of 1853, in the City of Fernandina de Vigan, Ilocos Sur, Philippine Islands, the said Vicente Ruperto Romero Sy Quia contracted legitimate marriage *in faciem ecclesie* with the defendant Petronila Encarnación, Filipina Ilocana, native of the City of Fernandina de Vigan, Ilocos Sur, consistent with the canonical laws approved by the Council of Trent, the only 1040 ones then in force in the Philippine Islands. A copy of this certificate of the entry of the marriage is not attached to this answer inasmuch as the defendant Generoso Mendoza Sy Quia makes the certified copy of the entry of the marriage respectively marked Exhibit "2" and "B" of his co-defendants his.

(d) That the spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnación established and permanently fixed their residence and conjugal domicile in the Philippine Islands after their marriage, and as a matter of fact constantly continued domiciled and residing in the Philippine Islands until the 9th day of January, 1894, when their marriage was dissolved by the death of the husband, Vicente Ruperto Romero Sy Quia, in the City of Manila.

(e) During their marriage the spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnación had five children, who are: Apolinaria, María, Gregorio, Pedro and Juan, all surnamed Romero Sy Quia, the defendant Generoso Mendoza being the grandson and legitimate descendent of said spouses Vicente Ruperto Romero Sy Quia and Petronila Encarnación on account of being the legitimate son of the said María (now deceased) in her marriage with Eustaquio Mendoza.

(f) That at the time of the celebration of the marriage of Vicente Ruperto Romero Sy Quia and Petronila Encarnación, he had no property of his own of any class, while she brought to the conjugal partnership a small capital of her own in currency consisting of the sum of five thousand pesos which was the base of another larger, with which and by means of the work and industry of both spouses, and with the work and industry or assistance of their children, they acquired the wealth of property existing at the time of the death of the said Vicente Ruperto Romero Sy Quia.

(g) That on the 9th of January, 1894, in the City of 1041 Manila Vicente Ruperto Romero Sy Quia, legitimate husband of the defendant Petronila Encarnación, legitimate father and grandfather of the defendants Gregorio, Pedro, Juan and Generoso Mendoza Sy Quia, died intestate, and after the legal proceedings in accordance with the Ley de Enjuiciamiento Civil Español, then in force in the Philippine Islands, his living children Apolinaria, Gregorio, Pedro and Juan, had as is alleged by his legitimate marriage with Petronila Encarnación, and his grandchild Generoso Mendoza Sy Quia, in representation of his mother María Romero Sy Quia (already deceased), were judicially declared his heirs, by the order of the 26th of January of 1894, dictated by the Court of First Instance of Quiapo, Manila, Philippine Islands, as appears in the copy marked Exhibit "8" and "D" of the respective answers of his co-defendants.

(h) That on the first day of May of 1900, Apolinaria Romero Sy Quia, judicially declared heir of her father Vicente Ruperto Romero Sy Quia, died single and intestate, leaving her mother, Doña Petronila Encarnación, as her only legitimate and universal heir.

(i) That since the death of Vicente Ruperto Romero Sy Quia, the defendants have been in quiet, public, specific and uninterrupted possession in the capacity of owners in good faith and with just title of all the property which constitutes the inheritance of the said deceased Vicente Ruperto Romero Sy Quia, without their having been molested by the plaintiffs or any of them, notwithstanding that they were present in the Philippine Islands at the time of the death of the said Vicente Ruperto Romero Sy Quia.

(j) The plaintiffs at the same time had information and knowledge of the fact that the defendants prayed the court for and secured the sentence of the declaration of heirs in their favor, which is referred to in paragraph "g" of this pleading in answer.

1042 (k) That the plaintiffs called Sy Bibo and Sy Biguel, were never recognized nor considered as descendants, heirs or relatives by the deceased Vicente Ruperto Romero Sy Quia, nor enjoyed the constant possession of the state of children or legitimate descendants of the same.

Therefore, the defendant Generoso Mendoza Sy Quia, prays the court to dictate sentence in favor of all the defendants absolving them from the complaint and condemning the plaintiffs to pay the costs.

Manila 18 of January, 1906.

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorney for Generoso M. Sy Quia.*

Received copy this 18th day of January, 1906.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

The 31st day of — 1906, the plaintiffs in this case presented an amendment to the complaint by way of reply, the said amendment being as follows:



## (Heading and Title.)

*Amendment by Way of Reply.*

Come now the plaintiffs in the above-entitled case and replying to the answer of the defendants Petronila Encarnación, Gregorio Sy-Quia, Pedro Sy-Quia, Juan Sy-Quia and Generoso Mendoza Sy-Quia by way of amendment to plaintiffs' complaint allege:

## I.

They deny generally and specifically each and every one of the material allegations of said defendants' answer.

## II.

That the alleged marriage of Vicente Romero Sy-Quia with the defendant Petronila Encarnación as alleged, in said defendants' answers, was not a genuine and legal marriage, but on the contrary was false, fraudulent and of no legal force, effect and validity, 1043 and the alleged certificate of marriage attached and referred to — said defendants' answers is not a true and genuine certificate of marriage but on the contrary is a false, fraudulent and simulating certificate without any force, effect or legal validity for the reason that on the said 9th day of June, 1853, the said Vicente Romero Sy-Quia was, had been for a long time prior thereto and continued to be until the year 1891, the date of her death, lawfully married to Yap Buanju Sy-Quia as alleged in plaintiffs' complaint, which said marriage of the said Vicente Romero Sy-Quia and the said Yap Buanju from the time of its solemnization about the year 1847 down to the time of the death of the said Yap Buanju in the year 1891 was continuously in full force and complete legal force, and that said Vicente Romero Sy-Quia contracted no marriage after the death of his said wife Yap Buanju Sy-Quia.

## III.

That Doña Apolinaria, Doña María, Don Gregorio, Don Pedro, and Don Juan alleged to be legitimate children of the said Vicente Romero Sy-Quia and the defendant Petronila Encarnación, as alleged in paragraph six of said defendants' answers, are not and never have been the legitimate children of the said Vicente Romero Sy-Quia and are not and never have been his legitimate heirs and descendants and the certificates of baptism attached to said defendants' answer and designated as exhibits 3, 4, 5, and 6 and 7 are not true and genuine but on the contrary are false, and fraudulent and of no legal effect and validity for the reason that the said persons are not and never have been the legitimate children of Vicente Romero Sy-Quia, deceased



## IV.

Plaintiffs herein further amend their complaint and particularly paragraph IX thereof by striking out said paragraph and insert in place thereof the following:

## IX.

That on or about the 3rd day of August, 1900, the defendants and each of them unlawfully, without right and in the absence of the plaintiffs and each of them, took possession of all and every part of the real estate and personal estate of the said Sy-Quia otherwise known as Vicente Romero Sy-Quia, deceased and said defendants and each of them have as aforesaid ever since been managing and administering the said real and personal estate of the said Vicente Romero Sy Quia, assuming acts of ownership and dominion over said estate of the said Sy-Quia deceased.

## V.

That plaintiffs further amend their complaint and particularly paragraph X by striking out the whole of said paragraph and inserting in place thereof the following:

## X.

That since on or about the said 3rd day of August, 1900, the said defendants and each of them have converted and are converting part of the estate of the said Sy-Quia to their and each of their own use and benefit and have converted a great part of said estate into other real and personal property unknown to the plaintiffs and to each of them, and said defendants and each of them are now in possession of such property so converted from the real and personal property left by the said Sy-Quia as aforesaid, exercising acts of ownership and dominion thereon.

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for Plaintiffs.*

We received copy this 31 of January, 1906.

(Sgd.) ROSADO, SANZ Y OPISSO, *Attorneys.*

31, Plaza del Padre Moraga, Manila.

1045

(Title of Case Omitted.)

*Answer to the Amended Complaint.*

The defendant, Generoso Mendoza Sy Quia, answering to the amended complaint of the plaintiffs, alleges:

I. Denies each and every one of the allegations contained in the 2, 3, 4, and 5 paragraphs of the pleading in amendment by way of reply of the plaintiffs.

II. Ratifies each and every part of the allegations and defenses made in his foregoing pleading in answer, reproducing them here.

Therefore, he reproduces his prayer to the Court to definitely dictate sentence absolving the defendants from the complaint with costs against the plaintiffs.

Manila 13 of February, 1906.

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorney for Generoso M. Sy Quia.*

We received Copy this 13 day of February, 1906.

(Sgd.) BISHOP & O'BRIEN.

The 7th day of February, 1906, defendants Petronila Encarnación, Pedro Sy Quia, Gregorio Sy Quia and Juan Sy Quia presented the following answer to the amendment to the complaint:

(Heading and Title Omitted.)

*Answer to the Plaintiffs' Amended Complaint by Way of Reply.*

The defendants Doña Petronila Encarnación, Don Pedro Sy-Quia, Don Gregorio Sy-Quia, and Don Juan Sy-Quia answering to the amended complaint by way of reply of the plaintiffs allege:

#### I.

That they deny each and every one of the allegations 1046 contained in the 2, 3, 4, and 5 paragraphs of the pleading in amendment by way of reply of the plaintiffs.

#### II.

That they ratify each and every part of the denials, allegations and defenses already made in their pleading in answer presented in the above entitled case, all of which denials, allegations and defenses are reproduced here.

Therefore these defendants reproduce their petition by means of their attorneys that the Court dictate sentence absolving them from the complaint at the costs of plaintiffs.

Also playing for what ever other remedy is considered proper in justice and equity.

Manila, P. I., February 7, 1906.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys for D. a Petronila Encarnación  
Don Pedro Sy Quia and Don Juan Sy  
Quia.*

(Sgd.)

LEDESMA SUMULONG & QUINTOS,  
*Attorneys for D. Gregorio Sy Quia.*

We received copy this 8th day of February, 1906.

(Sgd.) BISHOP & O'BRIEN.

*Attorneys for Plaintiffs.*

On the 19th day of June, 1906, and in view of the death of the defendant Petronila Encarnación her attorneys presented the following motion:

(Heading and Title.)

The undersigned as attorneys for the defendant Doña Petronila Encarnación, advise the court of the death of the said lady which occurred in this City of Manila on the 6th day of the present month of June, and as Attorneys at the same time for the defendants 1047 Don Pedro Sy-Quia and Don Juan Sy-Quia, pray the Court to direct that in conformity with Art. 119 of the Code of Civil Procedure, this trial be continued in the name of the administrator of the deceased's estate, Don Pedro Sy-Quia.

Manila, 19 of June, 1906.

(Sgd.)

ROSADO, SANZ & OPISSO.

We concur:

(Sgd.) BISHOP & O'BRIEN,

*Attorneys for Plaintiffs.*

On the 21st day of June, 1906, the foregoing motion was decided by the Court of First Instance of Manila in the following order:

(Heading and Title.)

*Order.*

In view of the foregoing petition of Messrs. Rosado, Sanz & Opisso, in which appears the concurrence of the attorneys for the plaintiffs, Messrs. Bishop & O'Brien, it is ordered that the administrator of the estate of Doña Petronila Encarnación, who at the present time is Don Pedro Sy-Quia, continue this suit defending the rights which said deceased defendant defended when living, in accordance with Art. 119 of the Code of Civil Procedure.

It is so ordered.

Manila 21st of June, 1906.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

On the 20th day of August, 1906, Attorneys for plaintiffs and defendants filed the following stipulation:

(Heading and Title.)

*Stipulation.*

It is hereby agreed and stipulated by and between Bishop & O'Brien, attorneys for plaintiffs in the above entitled 1048 action, and M. Legaspi Florendo, attorney for Generoso M. Sy Quia, Rosado, Sanz & Opisso, attorneys for Pedro Sy Quia, Juan Sy Quia and the administrator of the estate of Petronila Encarnación, deceased, and Ledesma, Sumulong & Quintos, attor-

neys for Gregorio Sy Quia, that the Hon. A. S. Crossfield is requested to issue a commission in the above entitled action, authorizing the Hon. American Consul, Vice-Consul or consular agent of the United States in Amoy, China, to take the deposition of the following named witnesses on behalf of the plaintiffs in the above entitled action.

Sy-Leng, Sy-Jon-Goon, Su-Kung-Leng, Sy-Bo-An, Sy-Kai-Tit, Syne-Heng-Peng, Yap-Si-Tan, Yap-Chong, Tan-Si-Ty, Yap-Si-Sy, Kim-Hock-Him and Liung-Bi and others.

The taking of such deposition to commence on the 27th day of August, 1906, at 8 o'clock A. M., and to be continued from day to day until completed. The said deposition to be taken in the English language, and the said Hon. Consul, Vice-Consul or consular agent is authorized to designate and swear a competent interpreter in case the witnesses produced are unable to testify in the English language. The depositions are to be taken orally and without written interrogatories, and in case any of the witnesses are unable to personally appear in the consulate, the officer taking such depositions is authorized to take the depositions of such witnesses at their place of residence. Said depositions are to be taken, certified and returned as provided for by section 302 of the Code of Civil Procedure, all parties hereto waiving a formal application as provided for in the taking of depositions out of the Philippine Islands.

It is further stipulated and agreed that, in case the defendants wish to take the deposition of any witness or witnesses in the Province of Amoy, that they are hereby authorized to take the same under the terms of this stipulation, the said plaintiffs waiving all notice as to a formal application as provided for by law.

Dated Manila, this 8th day of August, 1906.

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorney for Generoso M. Sy Quia.*

(Sgd.)

BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys for Pedro Sy Quia, Juan Sy Quia and of the Administrator of the Estate of Petronila Encarnación, Deceased.*

LEDESMA, SUMULONG &  
QUINTOS,

(Sgd.)

By JUAN SUMULONG,  
*Attorneys for Gregorio Sy Quia.*

On the 8th day of November, 1906, the plaintiffs, in view of the death of the plaintiff Sy Juinin, filed in the Court of First Instance of Manila the following motion:

(Heading and Title)

Come now Bishop & O'Brien, attorneys for the plaintiffs in the above entitled action and represent to the Court:

That the above named plaintiff Sy Juiniu died intestate in Amoy, China, on or about the 28th day of July, 1906, and that upon the 8th day of November, 1906, C. W. O'Brien was appointed by the Court special administrator of the estate of the deceased.

Wherefore attorneys for plaintiffs and for and on behalf of the said special administrator move that said action may be allowed to be continued by the said special administrator.

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs and Special Administrator.*

And on the 12th day of November, 1906, the special administrator of the Estate of the plaintiff Sy Juiniu filed the following notice:

(Heading and Title)

*Notice.*

To the above named defendants and their attorneys:

1050 You are hereby notified that on Saturday, the 10th of November, 1906, at 8 o'clock a. m. or as soon thereafter as counsel can be heard, the attorneys for the plaintiffs will ask the Court that the above entitled case be set for trial.

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs.*

On the 13th day of November, 1906, the special administrator of the Estate of the plaintiff Sy Juiniu filed his appearance in these proceedings by mean- of the following document:

(Heading and Title.)

*Appearance.*

Comes now C. W. O'Brien, the duly appointed, qualified and acting special administrator of the estate of Sy Juiniu, deceased, and enters his appearance as such administrator in the above entitled action.

(Sgd.)

C. W. O'BRIEN,

*Special Administrator of the  
Estate of Sy Juiniu, Deceased.*

(Sgd.)

BISHOP & O'BRIEN,

*Attorneys for Plaintiffs and  
Special Administrator.*

On the 17th day of November, 1906, the attorneys for the plaintiffs and defendants filed the following agreement:

## (Heading and Title.)

The undersigned, as attorneys for the parties in the above entitled case, make the following stipulation:

That the following documents of the defendants, copies of which have been attached to their respective pleadings in answer as Exhibits Nos. 1, 2, 3, 4, 5, 6, 7, and the letters A, B, C, are to be considered as authentic and original documents, instead of certified copies, and that said copies will have the same effect as the originals would if presented in the pleadings. The said documents more than others are to-wit:

(a) Entry of the baptism of the Chinaman Vicente 1051 Ruperto Romero, known prior to being converted to Christianity as Sy Quia.

(b) Entry of the marriage of Vicente Ruperto Romero with Doña Petronila Encarnación.

(c) Entry of the baptism of Apolinaria Romero y Encarnación.

(d) Entry of the baptism of María Romero Sy Quia y Encarnación.

(e) Entry of the baptism of Gregorio Romero Sy Quia y Encarnación.

(f) Entry of the baptism of Pedro Antonio Sy Quia y Encarnación.

(g) Entry of the baptism of Juan Nepomuceno Romero Sy Quia y Encarnación.

(h) Entry of the burial of María Romero Sy Quia y Encarnación.

(i) Entry of the baptism of Generoso Mendoza y Sy Quia.

This stipulation is made with the sole object of avoiding producing the originals which are bound in books with other documents which affect persons not interested in this litigation.

Manila, Nov. 17, 1906.

(Sgd.) LEDESMA, SUMULONG & QUINTOS,  
*Attorneys for D. Gregorio Sy Quia.*

(Sgd.) ROSADO, SANZ & OPISSO,  
*Attorneys for D. Pedro and D. Juan, Sy Quia and of  
the Estate of D.a Petronila Encarnación.*

(Sgd.) BISHOP & O'BRIEN,  
*Attorneys for the Plaintiffs.*

(Sgd.) M. LEGASPI FLORENDO,  
*Attorney for Generoso Mendoza.*

On the 4th day of January, 1907, the defendants in the above entitled cause presented the following two motions:

## (Heading and Title.)

The defendants in the above entitled case, by means of their attorneys, respectfully pray the Court not to admit the 1052 depositions taken before the Consul of the United States of America in Amoy, China, of the witnesses for the plaintiffs

Li Ung Bing, Sy Peng, Lim Chio, Yap Si Tan, Yap Chia, Sy Kai Tit, Yap Chong, Sy Boan, Sy Kong Leng and Sy Hong Oan, which the said plaintiffs intend to present in the above mentioned case.

This motion is based on the fact that the depositions of said witnesses suffer from the formal defect in respect to the oath taken by them.

Manila, January 4th, 1907.

(Sgd.) ROSADO, SANZ & OPIRRO,

*Attorneys of the Estate of Doña Petronila Encarnación,  
of Don Pedro Sy Quia and Don Juan Sy Quia.*

(Sgd.) LEDESMA, SUMULONG & QUINTOS,

*Attorneys for D. Gregorio Sy Quia.*

(Sgd.) M. LEGASPI FLORENDO,

*Attorney for D. Generoso Mendoza Sy Quia.*

To the plaintiffs Sy Yoc Ling, Sy Yoc Chai, Sy Jui Nin and Sy Chuai Nin or to any of their attorneys.

GENTLEMEN: Please accept notice that on Monday, the 7 of January, 1907, at 8 a. m., prior to the trial of the above entitled cause, the defendants thru their attorneys will ask the Hon. Chas A. Lobingier, Judge of Part II of the Court of First Instance of Manila, P. I., to hear and decide the foregoing motion.

Very respectfully yours,

(Sgd.) ROSADO, SANZ & OPIRRO,

*Attorneys of the Estate of Doña Petronila Encarnación,  
of Don Pedro Sy Quia and Don Juan Sy Quia.*

(Sgd.) M. LEGASPI FLORENDO,

*Attorneys for Generoso Mendoza Sy Quia.*

(Sgd.) LEDESMA, SUMULONG & QUINTOS,

*Attorneys for D. Gregorio Sy Quia.*

We received copy this 4th day of January, 1907.

(Sgd.) C. W. O'BRIEN,

W. H. BISHOP,

*Attorneys for Plaintiffs.*

1053

(Heading and Title.)

The defendants in the above entitled cause, by means of their attorneys, respectfully pray the Court not to admit the depositions, taken before the Consul of the United States in Amoy, China, of the witnesses for the plaintiffs, Li-Ung-Bing, Sy-Peng, Lim-Chio, Yap-Si-Tan, Yap-Chia, Sy-Kai-Tit, Yap-Chong, Sy-Boan, Sy-Kong-Leng, and Sy-Hong Oan, and which said plaintiffs intend to present in the above said case.

This motion is based on the ground already set forth in the motion presented this day, to wit: that the declarations of said witnesses suffer from the formal defect in the oath taken by them, as well as that the certificate appended by the functionary charged with



taking the depositions of said witnesses does not contain the essential requisites required by the Law.

Manila, 4th of January, 1907.

(Sgd.) LEDESMA, SUMULONG & QUINTOS,  
*Attorneys for Gregorio Sy Quia.*  
(Sgd.) M. LEGASPI FLORENDO,  
*Attorney for Generoso Mendoza Sy Quia.*  
(Sgd.) ROSADO, SANZ & OPISSO,  
*Attorneys for the Estate of Petronila Encarnación  
and D. Pedro and D. Juan Sy Quia.*

To the plaintiffs Sy Yoc Ling, Sy Yoc Chay, Sy Juiniu, and Sy Chuaniu, or their attorneys.

GENTLEMEN: By these presents we notify you that on Monday, January 7th, 1907, at 8 o'clock in the morning, and before the trial of the above entitled cause, the defendants, thru their attorneys, will ask the Hon. Chas. A. Lobingier, Judge of Part II of the Court of 1st Instance of Manila, P. I., to hear and decide the foregoing motion.

(Sgd.) ROSADO, SANZ & OPISSO,  
*Attorneys of the Estate of Doña Petronila Encarnación  
and of D. Pedro Sy Quia and D. Juan Sy Quia.*  
(Sgd.) LEDESMA, SUMULONG AND QUINTOS,  
*Attorneys for D. Gregorio Sy Quia.*  
(Sgd.) M. LEGASPI FLORENDO,  
*Attorney for Generoso Mendoza Sy Quia.*

Received copy this 5th day of January, 1907.

(Sgd.) C. W. O'BRIEN,  
W. H. BISHOP,  
*Attorneys for Plaintiffs.*

1054 On the 7th day of January, 1907, the trial of this case was celebrated and after having heard the testimony of the witnesses both for the plaintiffs and the defendants and the exhibits and the depositions of witnesses for both parties taken in Vigan and Amoy were presented, the Court on the 26th of February, 1908 dictated the following decision:

(Heading and Title.)

*Decision.*

This case is now before the court for trial upon a complaint by the plaintiffs, as heirs of one Sy Quia, later known as Vicente Romero Sy Quia, for a discovery by the defendants of all property of which the said Sy Quia died seized or possessed, coming into their possession or control, and of the rents and profits thereof since the death of said Sy Quia; for the appointment of a receiver for all the property disclosed upon such discovery, and of the said rents and profits thereof; for judgment that the plaintiffs be declared the only heirs

of said Sy Quia deceased, and as such are the owners and entitled to the possession of all said property, and the said rents and profits thereof; and that the defendants have been holding said property and rents and profits thereof for the use and benefit of the plaintiffs; and for such other relief as may seem just and equitable.

The defendants answering allege that the said Sy Quia was an infidel Chinaman, resident in the Philippine Islands long before the year 1852, in which year he was converted to Christianity and was baptized, and on the 9th day of June, 1853, was joined in lawful marriage to Petronila Encarnación, a native woman of the Philippine Islands, and that the two thus joined continuously maintained their conjugal domicile in the Philippine Islands until the death of said Sy Quia on January 9th, 1894; that at the time of the said marriage said Sy Quia had no property and Petronila Encarnación brought a small amount to the marriage contract, and that after the marriage by their labor and industry they accumulated a great amount of property; that of the marriage were born three male children named Gregorio, Pedro and Juan and two female children named Apolinaria and María; that Apolinaria died single in 1900, leaving as her only heir her mother, the said Petronila, and that María died before her father Sy Quia, leaving the defendant Generoso Mendoza as her sole heir; that Sy Quia died intestate in the year 1894, and the children as aforesaid were declared his heirs under the then existing law, and as such entered upon their inheritance from Sy Quia, and have been in quiet and peaceful possession continuously since and generally deny all the other allegations of the complaint.

The defendant Petronila Encarnación died after the commencement of the action, and the administrator of her estate, the defendant Pedro Sy Quia, was substituted as defendant in her place.

The plaintiff Sy Jui Niu, died after the commencement of this action, and the guardian of her only child Sian Han, Mr. C. W. O'Brien, was substituted as plaintiff in her behalf.

Mr. W. H. Bishop and Mr. C. W. O'Brien appeared in behalf of the plaintiffs; Srs. Rosado, Sanz and Opisso appeared for the defendants Pedro Sy Quia and Juan Sy Quia; Srs. Ledesma, Sumulong and Quintos appeared for the defendant Gregorio Sy Quia; and Mr. Mariano Legaspi for the defendant Generoso Mendoza y Sy Quia.

A great mass of testimony has been presented, taken before this court, and upon commission in China and other places in the Philippine Islands.

There is practically no conflict in the evidence received except such as possible may be drawn from inference, and I find the following facts undoubtedly established:

That Sy Quia, however his name may have been pronounced or spelled by different persons (to me as spoken by Chinese witnesses appearing before me the name sounded as though it should be spelled Sy Quienh), was born in China in 1822, a subject of the Chinese Empire;

That when about 12 years of age he came to the Philippine Islands

and worked for his uncle until about the age of 25 years, mostly in Manila;

That when about 25 years of age he returned to China and in the year 1847 was lawfully married to Yap Pua Niu, a Chinese woman, under the laws and customs of China;

That he remained about four years in China and two male children were born of that marriage named Sy Bi (Mi) Ho and Sy Bi (Mi) Git;

That the said Sy Bi (Mi) Ho was lawfully married to Ho Gim Niu, a Chinese woman, about 1870, and from this marriage two children were born, one male who died in infancy, and the other a female named Sy Jui Niu, originally one of the plaintiffs in this case who has since its commencement died leaving her only child and heir, Sian Han, as plaintiff in her stead, represented by her guardian, C. W. O'Brien; and that when the male child of said Sy Bi (Mi) Ho died he immediately adopted, in accordance with the laws and customs of China, a Chinese male infant named Sy Yoe Chay, one of the plaintiffs herein, who still survives and resides in Manila, and has done so for a long time;

That the said Sy Bi (Mi) Git was lawfully married about 1871 in China to a Chinese woman named Yap Su Niu, and from such marriage there was born one male child named Sy Yoe Long and one female child named Sy Chia Niu, both plaintiffs in this action;

1957 That said Sy Quia after returning to China from the Philippine Islands, as before stated, and remaining there about 4 years, came again to the Philippine Islands and went to Vigan to reside, and was there converted to and adopted the Christian religion, and was baptized under the rites of the Holy Roman Catholic Church, in 1852, and prefixed to his name the name Vicente Ruperto Romero, and later was married under the name of Vicente Romero Sy Quia, under the rites of the same Church in 1853, to the defendant Petronila Encarnación now represented by the administrator of her estate;

That from this marriage there were born three male children named respectively Gregorio Sy Quia, Pedro Sy Quia, and Juan Sy Quia, defendants herein, and two female children named respectively Apolinaria and Maria, all of which children were legally recognized and treated by Sy Quia as his children;

That Apolinaria died single, intestate, in the year 1900 without issue and leaving said Petronila Encarnación, her mother, formerly defendant herein, as her sole heir;

That the said Maria died intestate before her father Vicente Romero Sy Quia, leaving one male child named Generoso Mendoza her sole heir, who is one of the defendants herein;

That shortly after the marriage of Vicente Romero Sy Quia and Petronila Encarnación they came from Vigan to Manila to reside, and while so residing here the said Sy Quia's Chinese wife, Yap Pua Niu, came to Manila and resided for a time and while she did not live with Sy Quia in the same house he provided and cared for her as his wife and she was so treated;

That both Vicente Romero Sy Quia and Petronila Encarnación, while living, recognized Sy Yoe Chay and Sy Yoe Lang, while they resided in Manila, as grandchildren of Vicente Romero Sy Quia and provided for them as such; Petronila Encarnación delivering to Sy Yoe Lieng on two different occasions money amounting to 7,000 pesos, and Vicente Romero Sy Quia seems to have recognized the other plaintiffs, Sy Jui Niu and Sy Chua Niu, who lived in China, as his grandchildren;

That when Vicente Romero Sy Quia and Petronila Encarnación were married, Sy Quia had some property, and later Petronila Encarnación appears to have brought into the marriage contract 5,000 pesos;

That when Vicente Romero Sy Quia died in 1894 he and Petronila Encarnación had accumulated a large property, and the defendants other than Petronila Encarnación were declared heirs to his interest in the property on January 29th, 1894.

That Petronila Encarnación continued the administration of the whole property until August 3rd, 1900, when it was distributed under order of the Court to herself and the other defendants herein as heirs thereto, any rights which the plaintiffs herein might have had therein being overlooked or disregarded, and the defendants never recognized the plaintiffs as the legal heirs of Vicente Romero Sy Quia;

That Sy Bi (Mi) Bo died before his father, Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, his adopted son Sy Yoe Chay, one of the plaintiffs herein, and Sy Jui Niu who has since died leaving her only child Sian Han as her sole heir, one of the plaintiffs herein represented by C. W. O'Brien her guardian;

That Sy Bi (Mi) Gai died before his father Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, two of the plaintiffs herein, Sy Yoe Lang and Sy Chua Niu;

That Vicente Romero Sy Quia died on January 9th, 1894, leaving as his descendants by his Chinese wife the persons hereinbefore described, and his children by Petronila Encarnación as hereinbefore described.

That Petronila Encarnación died on June 6th, 1906, after the commencement of this action, and the administrator of her estate Pedro Sy Quia was substituted as defendant in her behalf;

I have been unable to find any law statute or otherwise which is entirely or precisely applicable or adaptable to all the conditions and facts existing in this case, and must resort to what may be new rules in order to reach conclusions which will not work an injustice to the persons interested.

I am unable to concede plaintiffs' claim, presented in argument, that Sy Quia at the time of his death was a subject of the Empire of China, so that his property would have to be distributed in accordance with the laws of China exclusively, but am of the opinion that from his long residence here, under the conditions existing, the property accumulated by him here is subject to distribution under

the laws existing here, taking into consideration certain laws of China in relation to the rights of the heirs living there.

I am unable to concede defendants' claim, made in argument, that Sy Quia while not believing in polygamy still believed in the right of concubinage, and for that reason his marriage contracted in China was polygamous, and against good morals and cannot be recognized here.

On the contrary marriages contracted in a foreign country under the laws and customs of that country are held legal and binding here unless one or both of the contracting parties had left here and gone to a foreign country to contract marriage there, in order to avoid provisions of the law here, or for other reasons were incapacitated to contract marriage.

1060 The conclusion is that Sy Quia's marriage in China was lawful, and the issue of that marriage are legal heirs to his estate;

That if he had married Petronila Encarnación in accordance with the customs of China, after his marriage to his Chinese wife, the marriage would have been lawful there, and she would have become his concubine and as such entitled to certain rights and her children by him would have been heirs to his estate, but his marriage to her here in the Philippine Islands was unlawful, and her children by him could become heirs to his estate only upon having — legally recognized by him as his children;

That Sy Quia and Petronila Encarnación having entered into a marriage contract, which she must have known was unlawful, though perhaps believing that it was permissible and which she believed to be lawful, thinking him to be an unmarried man, did not fully attain the rights as to each other as man and wife, so that the property which they jointly earned was gains under the marriage contract, and so that upon the death of either the other would have usufructory rights in the property of the one deceased, but the marriage contract must — treated as a partnership agreement between them. Sy Quia would not be entitled to all the property earned by both while living together as perhaps he would if no marriage ceremony had been performed and business had been transacted and property obtained in his name;

That having entered upon a life together as partners, with probably equal capital, and each giving service they would be entitled to an equal division of the proceeds of such partnership, and their labor and all such proceeds being in the Philippine Islands, when

Sy Quia died, Petronila Encarnación was entitled to one-

1061 half of all the property of which he died seized here:

That because the marriage ceremony between Vicente Romero Sy Quia and Petronila Encarnación was not lawful Petronila Encarnación may not be deprived of her share of the gains made under the marriage, such as it was, while it existed, neither could Vicente Romero Sy Quia, nor can his heirs now, claim all the gains made under the contract between Vicente Romero Sy Quia and Petronila Encarnación, whatever it may be;

That Vicente Romero Sy Quia having entered into an unlawful

marriage here after his marriage in China could not deprive the children of that marriage in China of their rights to his estate even here in the Philippine Islands;

That the living heirs to the estate of Vicente Romero Sy Quia, consisting of one half of the property of which he died seized, are Sy Yoc Chay and Sian Han, respectively, his grandson by his son Si Bi (Mi) Bo and his great granddaughter through his son Sy Bi (Mi) Bo; and granddaughter Sy Jui Niu; and Sy Yoc Leng and Sy Chua Niu his grandchildren through his son Sy Bi (Mi) Git, as his legal descendants; and Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, his sons; Generoso Mendoza Sy Quia his grandson through his daughter María; and the heirs of Petronila Encarnación as heirs of Apolinaria Sy Quia his daughter, as his natural descendants legally recognized; and that the heirs of Petronila Encarnación are entitled to the other half of that estate;

That the shares of each in the whole estate are: the plaintiffs Sy Yoc Lieng 1/18th, Sy Yoc Chay 1/18th, Sy Chua Niu 1/18th, C. W. O'Brien as guardian of Sian Han 1/18th, and the defendants Pedro

Sy Quia 1/18th, Juan Sy Quia 1/18th, Gregorio Sy Quia, 1062 1/18th, Generoso Mendoza y Si Quia, 1/18th, and the heirs of Petronila Encarnación, represented by Pedro Sy Quia the administrator of her estate, 10/18th;

That Petronila Encarnación having administered the whole estate of which Vicente Romero Sy Quia died seized from the time of his death until the distribution thereof in 1900, as hereinbefore set forth, the estate so distributed must be taken and considered as such whole estate;

That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia and Petronila Encarnación now represented by her administrator Pedro Sy Quia, having taken possession in individual parts of the whole estate, and the whole estate being unknown to the plaintiffs, the plaintiffs are entitled to a disclosure from said defendants of all the property received by them and an accounting of the rents and profits thereof since it was so received;

That it appears that the plaintiffs have an interest in the property which is the subject matter of the action, and that the property is in danger of being lost, one of the defendants, having a portion of the property in his possession, having been declared a spendthrift and a guardian appointed for him, it appears to the court that the appointment of a receiver is the most convenient and feasible means of preserving and administering the property which is the subject matter of litigation.

Let judgment be entered declaring that the plaintiffs Sy Yoc Leng, Sy Yoc Chay, Sy Chua Niu and C. W. O'Brien as guardian of Sian Han, and the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza y Sy Quia, and the heirs of Petronila Encarnación, deceased, represented by one of the defendants Pedro Sy Quia as administrator of her estate, are joint heirs to the



estate of Vicente Romero Sy Quia, deceased, consisting of  
 1063 one-half of the whole estate distributed under the judicial  
 order of the Court of 1st Instance of the District of Quiapo  
 under date of August 3rd, 1900, in the following ratio:

Sy Yoe Lieng 1/9th, Sy Yoe Chay 1/9th, Sy Chau Niu  
 1/9th, C. W. O'Brien as guardian of Sian Han 1/9th, Pedro Sy  
 Quia 1/9th, Juan Sy Quia 1/9th, Gregorio Sy Quia 1/9th, Generoso  
 Mendoza Sy Quia 1/9th, and the heirs of Petronila Encarnación  
 represented by Pedro Sy Quia as the administrator of her estate  
 1/9th; and that the heirs of Petronila Encarnación, represented by  
 the administrator of her estate Pedro Sy Quia, are jointly the owners  
 of and entitled to the possession of the other half of the estate of  
 which Vicente Romero Sy Quia died seized:

That the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy  
 Quia and Generoso Mendoza y Sy Quia and Pedro Sy Quia as ad-  
 ministrators of the estate of Petronila Encarnación and representing  
 her heirs, make disclosure of all the property distributed to them  
 respectively under the said judicial order dated August 3rd, 1900:

That the said defendants each render an accounting of the rents  
 and profits of all the property received by them respectively under  
 said judicial order, since the said property was delivered to them,  
 provided that if it shall appear upon disclosure as before adjudged  
 the property distributed to Petronila Encarnación in her own right  
 shall not exceed one-half of the whole of the estate of which Vicente  
 Romero Sy Quia died seized, then accounting in her behalf for the  
 rents and profits will not be necessary.

That a receiver be appointed to be hereafter named upon giving  
 bond to be hereafter fixed, to take possession of the whole estate  
 disclosed as hereinbefore required, provided that if upon the  
 1064 disclosure it shall appear that the property distributed to  
 Petronila Encarnación in her own right shall not exceed  
 one-half of the whole estate of which Vicente Romero Sy Quia died  
 seized, then that he shall take possession of, as such receiver, only  
 the other half distributed to the other persons making disclosure.

No Costs will be taxed.

Manila, P. I., February 26th, 1908.

(Sgd.)

A. S. CROSSFIELD, Judge.

On the 27th day of February of the present year 1908, the de-  
 fendants Pedro Sy Quia personally and as administrator of the  
 estate of Doña Petronila Encarnación and Juan Sy Quia personally  
 took exception to the decision dictated in this matter and announced  
 their intention to appeal from the same to the Honorable Supreme  
 Court of the Philippine Islands by means of the following document:

(Heading and Title.)

The defendant Pedro Sy Quia personally and as administrator of  
 the estate of Doña Petronila Encarnación, and the defendant Juan  
 Sy Quia personally, except to the Decision of the Court in the above  
 entitled cause, and announce their intention to prepare in the ordi-



nary way a Bill of Exceptions, without prejudice to asking for a new trial.

Manila, February 27, 1908.

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

On the 2nd day of March, 1908, the defendant Gregorio R. Sy Quia also took exception against the Decision by means of a document which copied literally is as follows:

(Heading and Title.)

Comes now the defendant Gregorio R. Sy Quia, and respectfully states to the Court:

That he excepts to the decision filed in this cause, of which he was notified only this day.

Manila, March 2, 1908.

(Sgd.)

RAMON FERNANDEZ.

In his turn the defendant Generoso Mendoza Sy Quia also filed on the 4th day of March, 1908 his exception to the Decision which is couched in these terms:

(Heading and Title.)

The undersigned, in representation of Generoso Mendoza Sy Quia states:

That yesterday he was notified of the decision dictated by this Honorable Court in the above entitled cause.

That he excepts to the said decision.

Manila, February 4, 1908.

(Sgd.)

M. LEGASPI FLORENDO.

On the 4th day of March, 1908, the following petition for a new trial was presented in the Court by the Sres. Rosado, Sanz y Opisso:

(Heading and Title.)

The defendant Pedro Sy Quia, personally and as administrator of the estate of Doña Petronila Encarnación, and the defendant Juan Sy Quia, personally, pray the Court to annul the decision dictated in this case, and ask for the celebration of a new trial:

This motion is based on:

I. That the proof is insufficient to justify the judgment in favor of the plaintiffs.

II. That the findings of fact are openly and manifestly contrary to the weight of the evidence.

III. That the decision is contrary to law.

Manila, February 27, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received copy this 3 day of March, 1908.

(Sgd.) C. W. O'BRIEN.

On the 3 of March 1908, another petition for a new trial was presented to the Court by Ramón Fernandez as follows:

(Heading and Title.)

To the plaintiffs or their attorneys, Messrs. Bishop and O'Brien.

GENTLEMEN: You are hereby notified that on next Saturday, March 7, 1908, at 8 a. m., or as soon thereafter as this representation may be heard, the Court will be asked to set aside the sentence and celebrate a new trial for the following reasons:

1st. Because the sentence is contrary to law.

2nd. Because the facts proven by the sentence are openly and manifestly contrary to the weight of evidence.

Respectfully,  
(Sgd.)

RAMON FERNANDEZ.

Received copy March 3, 1908.

(Sgd.) W. H. BISHOP.

(Sgd.) C. W. O'BRIEN.

On March 4th, 1908, the attorney M. Legaspi Florendo also asked for new trial of the cause by means of a petition which literally copied — as follows:

(Heading and Title.)

The undersigned states:

I. That on the 3rd instant the deponent was notified of the decision dated the 26th of February, 1908, entered in the above 1067 entitled cause.

II. That the evidence presented at the trial does not sustain sufficiently the decision of the Court in that which relates to the plaintiffs.

III. That said decision is openly contrary to law.

Therefore, petition is made to the Court to annul said decision and in consideration of the grounds above stated order a new trial of the said cause.

Manila, March 4, 1908.

(Sgd.)

M. LEGASPI FLORENDO,  
*Attorney for G. M. Sy Quia.*

The 7th day of March after proper and opportune notifications the attorneys for the plaintiffs and those for the defendants appeared before the Court for the hearing of all the foregoing motions for a new trial all of which — overruled by the Court and the defendants immediately presented the following document of exception:

(Heading and Title.)

The defendants Pedro Sy Quia, Juan Sy Quia, Gregorio Sy Quia, Generoso Mendoza Sy Quia, and Pedro Sy Quia, as administrator of

the estate of Petronila Encarnación, except to the decision of the Court denying the motion for a new trial prayed for by the said defendants, and pray that note of this exception be made.

Manila, March 7, 1908.

(Sgd.)

ROSADO, SANZ & OPISSO.  
RAMON FERNANDEZ.  
M. LEGASPI FLORENDO.

The Clerk of Court will please attach to continuation in order to form an integral part of this Bill of Exceptions all the evidence adduced by the plaintiffs as well as by the defendants including the exhibits attached to the pleadings, those presented during the trial of the cause, and the stenographic notes of the declarations of witnesses as well as the deposition taken at Vigan and Amoy.

And the defendants Pedro Sy Quia, Juan Sy Quia, Gregorio Sy Quia, Generoso Mendoza Sy Quia and Pedro Sy Quia as administrator of the estate of Doña Petronila Encarnación present this Bill of Exceptions in time and ask that it be approved, certified and forwarded to the Supreme Court with all, absolutely all the evidence ad-uced by the parties which is made an integral part thereof.

Manila, March 7th, 1908.

(Sgd.)

(Sgd.)

(Sgd.)

M. LEGASPI FLORENDO,  
RAMON FERNANDEZ,  
ROSADO, SANZ AND OPISSO,  
*Attorneys, 31 Plaza del P. Moraga, Manila.*

Received copy this 7th of March, 1908.

(Sgd.)

C. W. O'BRIEN.

(Heading and Title Omitted.)

I hereby certify that the foregoing Bill of Exceptions is correct and contains all the essential parts for the clear understanding of all the errors and assigned. Execution of the judgment will not be stayed as to the disclosure and accounting ordered.

Manila, March 28th, 1908.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

PHILIPPINE ISLANDS,

*Manila, ss:*

The undersigned hereby certify that the foregoing Bill of Exceptions, composed of 51 pages, is the original Bill of Exceptions presented by the appellant and approved by this Court.

In faith whereof I sign this presents, in Manila this 20 day of April, 1908.

[SEAL OF THE COURT.]

(Shd.)

J. McMICKING, *Clerk.*

(Filing stamp.)

(Heading and Title Omitted.)

*Additional Bill of Exceptions of the Defendants.*

Be it known by these presents that after the defendants' Bill of Exceptions was presented in this cause, the following orders were dictated by the Court and following exceptions presented by the defendants:

(Title of the Case.)

*Motion.*

This case being before the Court for the hearing of the motions of the defendants in which they ask for the celebration of a new trial, after hearing the parties thru their respective attorneys, the motion is denied to this ruling the defendants Pedro, Gregorio, Juan, Generoso and Petronila Encarnación by her administrator, and each of them by their respective attorneys take exception.

Manila, P. I., March 7, 1908.

(Sgd.)

A. S. CROSSFIELD, Judge.

(Title of the Case.)

There is a seal which says Court of 1st. Instance Mar. 25, 1908. Clerk's Office.

1070

*Order.*

This case is before the Court for the hearing of the motion presented in which the appointment of a receiver of the property in accordance with the decision dictated by this Court on the 26 of February, 1908 is petitioned.

Mr. W. H. Bishop appeared for plaintiffs, and Sr. Opisso appeared for Juan and Pedro Sy Quia; and Sr. Legaspi in representation of Sr. Generoso Mendoza Sy Quia; and Sr. Fernandez in representation of Gregorio Sy Quia.

After hearing the parties, thru their respective attorneys and duly considering the case, the qualifications of the different persons proposed for the position of Receiver, I am of the opinion, that it is to the interest of all parties concerned, that Sr. Gregorio Sy Quia be appointed receiver; and

In virtue thereof it is ordered that Sr. Gregorio Sy Quia, be and is hereby appointed receiver, upon the presentation of a bond in the sum of 400,000 pesos, approved by the Court. In case the said gentlemen does not accept, or qualified to said position immediately, the appointment will be without effect and a competent outside person be appointed in his stead.

Manila, P. I., March 17th, 1908.

(Sgd.)

A. S. CROSSFIELD, Judge.

Be it known that this 25 day of March, 1908, cards of notification of the foregoing order were sent to the respective attorneys of all the parties, to which I certify.

(Sgd.)

JOSE CASIMIRO,  
*Deputy Clerk.*

1071

(Title of the Case.)

The defendants Pedro Sy Quia and Juan Sy Quia, hereby manifest to the Court that only on this date were they notified of the Order dictated by this Court on the 17th of March, 1908, appointing a receiver and for this reason, they had not been able to present their exception thereto before this time. But now they except to the said order and ask that the same be made of record.

Manila, March 26th, 1908.

(Sgd.)

ROSADO, SANZ AND OPISSO,  
*Attorneys for Pedro and Juan Sy Quia.*

Filed on the 26th day of March, 1908.

J. MACMICKING, *Clerk.*

This 27th day of March, 1908, there was presented by the receiver appointed the personal bond for 400,000 pesos which was required of him in order dated 17th instant to the satisfaction of the court, which bond is attached to the proper book.

(Sgd.)

J. McMICKING, *Clerk.*

(Title of the Case.)

There is a seal which says Court of 1st Instance, Mar. 26, 1908. Clerk's Office.

### *Order.*

This case is before the court for the hearing of the motion in which it is asked that a period be fixed within which the defendants have to make known to the court the property which was distributed among them, belonging to the deceased Vicente Romero Sy Quia, according to the provisions of the sentence dictated by this court on the 26th of February, 1907.

Mr. Opisso appeared for Juan and Pedro Sy Quia, the latter personally and as judicial administrator of the property of the deceased Petronila Encarnación; Sr. Legaspi for Generoso Mendoza Sy Quia, and Sr. R. Fernandez for Gregorio Sy Quia.

After hearing the parties thru their respective counsel and having duly considered the matter,

It is ordered that the defendants Juan Sy Quia and Pedro Sy Quia, the latter personally and as administrator of the property of the deceased Petronila Encarnación, and Generoso Mendoza Sy Quia, manifest what is the property which was distributed respectively

among them, according to the order dated 3rd of August, 1903, on or before the 21st day of March, 1908, and that Gregorio Sy Quia, also manifest what is the property which was adjudicated to him, in virtue of said order, on or before the 31st day of March, 1908.

Manila, P. I., March 17th, 1908.

(Sgd.)

A. S. CROSSFIELD, *Judge.*

This 26th day of March, 1908, cards of notification of the foregoing order were sent. I certify.

(Sgd.)

JOSÉ CASIMIRO,  
*Deputy Clerk.*

(Title of the Case.)

The defendants Pedro Sy Quia and Juan Sy Quia, except to the Order of the Court which is dated the 17th instant, in which these defendants are directed to file statement of their property, which Order was stamped by the Clerk with the date of 26th, and the defendants only on this date having learned of it.

1073 Manila, March 31, 1908.

(Sgd.)

ROSADO, SANZ AND OPISSO.

The defendants pray the Court to please approve and attach the present additional piece presented in time to the Bill of Exceptions of these defendants.

Manila, April 1, 1908.

(Sgd.)

ROSADO, SANZ AND OPISSO,  
*Attorneys, 31 Plaza del Padre Moraga, Manila.*

Received copy this 1st day of April, 1908.

(Sgd.) C. W. O'BRIEN.

(Heading and Title Omitted.)

To the Attorneys for the plaintiffs:

Please take note that the undersigned, as attorneys for the defendants, will petition the Court on Saturday, April 4, 1908, at 8 a. m. or as soon thereafter as they can be heard, to approve and certify the attached Additional Bill of Exceptions.

Manila, April 1, 1908.

(Sgd.)

ROSADO, SANZ AND OPISSO,  
*Lawyers, 31 Plaza del Padre Moraga, Manila.*

Received copy this 1st day of April, 1908.

(Sgd.) C. W. O'BRIEN.

(Title of the Case Omitted.)

Now come the plaintiffs by their attorneys and object to the approval of the additional Bill of Exceptions presented by Pedro Sy

Quia and Juan Sy Quia, for the reason that the Bill of Exceptions does not state the facts, since the time that said motion for the appointment of a receiver, and the motion for a rendition of 1074 accounts were made, as said defendants Pedro Sy Quia and Juan Sy Quia were in the Court by their attorneys Rosado, Sanz and Opisso and had full knowledge of the decision of the court regarding said motions, and consented to the appointment of said receiver, and to the order for the rendition of accounts.

And further the said defendants, Pedro Sy Quia and Juan Sy Quia, subsequently furnished the bond of their co-defendant, the receiver, in the sum of Four hundred thousand pesos (P400,000) which was approved by this Court.

Manila, P. I., April 1st, 1908.

(Sgd.)

W. H. BISHOP AND  
C. W. O'BRIEN,  
*Attorneys for the Plaintiffs.*

We received copy.

(Sgd.) ROSADO, SANZ AND OPISSO.

(Title of the Case Omitted.)

*Order.*

This matter is before the Court for the hearing and approving of the amendments to the Bill of Exceptions presented by the defendants.

Mr. Antonio Opisso appeared for the defendants and Messrs. Bishop & O'Brien for the plaintiffs.

The original Bill of Exceptions has already been approved and is outside of the jurisdiction of this Court and an amendment of said Bill cannot be made, and the only matter by which other exceptions can be presented before the Supreme Court on appeal is by means of a supplementary piece to the Bill of Exceptions. After having duly considered the amendments presented as well as the objections of the party plaintiff,

I certify that the attached Bill, supplementary to the Bill of Exceptions, contains exceptions taken by the party defendant 1075 supplementary to the Bill formerly certified and it is made to appear that the order appointing Gregorio Sy Quia receiver was made at the suggestion of the party defendant made before the Court in open session fixing at the time the amount of the bond with knowledge of the parties defendant; that the order to the defendants to make known the property received by them and in which was fixed the time within which they had to make such manifestation, was also known by said parties defendant, so as to not delay the execution of the sentence of the Court with respect to said dispositions.

Manila, P. I., April 4, 1908.

(Sgd.)

A. S. CROSSFIELD, *Judge.*



This 6th day of April, 1908, cards of notification of the foregoing order were sent to the parties.

(Sgd.)

JOSE CASIMIRO,  
*Deputy Clerk.*

The undersigned certifies: that the additional Bill of Exceptions of the defendants composed of 9 useful pages is the original additional Bill of Exceptions presented by the defendants appellants and approved by this Court.

In testimony whereof I sign the presents in Manila this 20th day of April, 1908.

[SEAL.]

(Sgd.)

J. McMICKING, *Clerk.*

(Heading Omitted.)

MANILA, P. I., April 8, 1908.

Sres. Rosado, Sanz and Opisso, W. H. Bishop and C. W. O'Brien, Ramón Fernandez, Mariano Legaspi.

GENTLEMEN: I have the honor to inform you that the 1076 Bill of Exceptions in Civil Case No. 4164 has been approved by the Court.

Same will be retained in this Office for two days from this date that you may examine it and see whether all the documents, papers, testimonies, etc., which by said Bill of Exceptions are made part of it, are therein included.

Upon the expiration of the two days the Bill of Exceptions will be sent to the Supreme Court on the assumption that everything is included in it.

Very respectfully,

J. McMICKING, *Clerk.*

The foregoing notification was sent to the attorneys of both parties.

Manila, April 8, 1908.

(Sgd.)

J. McMICKING, *Clerk.*

Filed Apr. 21, 1908, 10 a. m.

1077

(4718.)

SY JOC LIENG, SY YOC CHAY, SY JUI NIU, and SY CHUA NIU,  
Plaintiffs, Appellees, and Appellants,

vs.

PETRONILA ENCARNACIÓN, GREGORIO SY QUIA, PEDRO SY QUIA,  
JUAN SY QUIA, and GENEROSO MENDOZA SY QUIA, Defendants,  
Appellants, and Appellees.

*Proceedings Had in the Supreme Court of the Philippine Islands.*

On April 21, 1908, the case was duly transmitted to the Supreme Court and filed therein, both parties being appellants, each having presented a separate bill of exceptions.

Thereafter and on the 18th day of June, 1908, counsel for defendants and appellants filed a brief in the Supreme Court which contains the following assignment of errors:

"The Court of First Instance of Manila, in rendering its judgment in the above entitled case, erred as follows:

I.

"In stating that there is no contradiction between the evidence adduced by either side except such as possibly may be drawn from inference.

II.

"In its appreciation of the evidence when it finds that Don Vicente Ruperto Romero Sy Quia was lawfully married in China to a Chinese woman named Yap Puan Niu; that this marriage was prior to the canonical one contracted later on with Doña Petronila Encarnación in the Philippine Islands; when it establishes the descendency of that Chinese marriage down to the plaintiffs herein, and 1078 in establishing the identity between Vicente Romero Sy Quia and the person or persons to which the witnesses for the plaintiffs may have referred, each pronouncing a different sound, and all this under incompetent evidence admitted against our objection and exception.

III.

"In its appreciation of the evidence when it takes into consideration the laws of China when these laws were neither alleged nor proved as a question of fact in the manner prescribed by our law of Civil Procedure, and in admitting against our objection and exception as proof of those written laws, the oral testimony of the Chinese Consul in Manila and that of the Chinaman Li Ung Bing, neither of them duly qualified to testify as to those laws and by unofficial non-authenticated and unduly translated copies of those Chinese laws.

IV.

"In admitting as evidence against our objection and exception the testimony of non-christian witnesses without a binding oath that would compel them to state the truth, in accordance with their religious belief.

V.

"In acknowledging as valid in the Philippine Islands a Chinese marriage which, had it ever existed, would be contrary to natural law and against good morals, on account of being polygamous and not based in the consent of the contracting parties.

VI.

"In stating that the property accumulated here by Vicente Romero Sy Quia and his wife Da. Petronila Encarnacion and which

property consists mostly in real estate, may be subject to certain laws of China.

## VII.

"In not acknowledging and not granting to the canonical marriage contracted between Vicente Ruperto Romero Sy Quia and Petronila Encarnacion, the legal effects which the law gives as regards the innocent spouses and the children, even supposing the existence of a prior Chinese marriage; and in granting to the Chinese descendants of the supposed guilty spouse the right to some part of the half of the earnings acquired during the marriage which the ancestor contracted in bad faith.

## VIII.

"In declaring the plaintiffs in this case heirs of Vicente Ruperto Romero Sy Quia; and that notwithstanding the plaintiffs' allegation that they are grandchildren by different stirpes, and notwithstanding the fact that the judgment appealed from recognizes the defendants Gregorio, Pedro and Juan Sy Quia as children, divides the estate making grandchildren and children share equally in the distribution of the property.

## IX.

"In sentencing the defendants to return the fruits *perceived* in good faith.

1080

## X.

"In stating that there is no law or legal disposition whatever to be applicable or adaptable to the conditions of this case and in resorting to what the Court itself calls new rules, thus becoming a legislator.

## XI.

"In its appreciation of the evidence when it states: (a) that Don Vicente Ruperto Romero Sy Quia and Da. Petronila Encarnacion probably brought equal capital to their marriage; (b) that they both in their lifetime recognized the plaintiffs Sy Joe Chai and Sy Joe Lieng, and that Sy Quia recognized the other plaintiffs; (c) that Sy Quia supported Yap Puan Niu when she was in Manila and treated her as his wife; further on, the Court erred in granting the plaintiffs a right of action after the evidence showed, that the legitimacy by them now alleged having been disregarded or repudiated by Sy Quia, said plaintiffs did not institute any action within the time prescribed by article 118 of the Civil Code.

## XII.

"In declaring that the property now in litigation is in danger of loss, and that the appointment of a receiver was necessary; and last,

in requiring the defendants to render an accounting, and not appreciating in their favor the prescription of domain."

Thereafter and on July 15, 1908, plaintiffs and appellants filed their brief, accompanied by the following assignment of errors:

"1. The court erred in refusing to find as a conclusion of law, that Sy Quia was a subject of the Empire of China and that his property should be distributed according to the law of China.

"2. The court erred in failing to find that the contract of marriage of Yap Pua Niu and Sy Quia was governed by the *lex loci* or *lex domicilii* which is Amoy, China, and that the descent and distribution of the estate of Vicente Romero Sy Quia and that the law of inheritance of Yap Pua Niu and her children by him must be governed by the law of that place.

"3. After making findings and conclusions that the marriage in China was legal and that the issue of that marriage are legal heirs to his estate the court erred in concluding that the marriage of Sy Quia to Petronila Encarnacion though illegal must be treated as a partnership agreement and that Petronila Encarnacion was entitled to one-half of all the property of which Sy Quia died seized.

"4. The court erred after finding that Vicente Romero Sy Quia and Petronila Encarnacion entered into an illegal and unlawful marriage contract, in concluding that the illegal marriage contract would give to the illegal wife and his children by her the same force and effect as though legal.

"5. The court erred in concluding that both plaintiffs and defendants jointly are entitled to inherit one-half of the estate of Sy Quia and Petronila Encarnacion and her heirs to the other half.

"6. The court erred after finding and concluding that the plaintiffs were the legal descendants of Sy Quia and then concluding that the defendants were his natural descendants legally recognized.

"7. The court erred in failing to render decision in favor of the plaintiffs for the entire estate of Sy Quia.

"8. The court erred in failing to grant plaintiffs their costs."

Thereafter and on the 4th day of September, 1908, counsel for plaintiffs and appellants filed a motion in the Supreme Court of the Philippine Islands, which said motion is in the words and figures following, to-wit:

(Title of Court and Cause Omitted.)

"To defendants and appellants or their counsel:

"You are hereby notified that on Monday, the 14th of September, 1908, at 9 a. m., or as soon thereafter as counsel can be heard, plaintiffs, through their attorneys, will ask the court for permission to amend their complaint heretofore filed in the above-entitled cause, in order that the allegations thereof may conform to the facts proven, by pleading the foreign law applicable in cases of adoption, inherit-

ance and distribution under the laws of the Province of Amoy, Empire of China, as follows:

1088

*Translation.*

"System of Adoption, Chap. 4, Vol. 8, Statutes Tay Ching Dynasty.

## I.

"Anyone who adopts an heir contrary to law shall be punished by flogging in 80 blows.

"If a wife is over the age of fifty years and have no son an elder son of the concubinage shall become the heir. If the husband does not take the eldest son of the concubinage as his heir it shall be contrary to law and must be rectified.

"If one who has no son and adopts a son of the same surname from parents who have other sons and in case such adopted son shall abandon his adopted parent he shall receive 100 blows and be sent back to his adopted parents for care. If the adopted parents have a son of their own and if the parents of the adopted son have no other son this son may be allowed to go back to his natural parents.

"Anyone who adopts a son of a different surname thus mixing up his family or clan shall be punished with 60 blows; and if any one shall be punished the same, and the son sent back to his family; provided if the child is under three years of age he shall be kept and change his own name to that of his adopted parents, but shall not be allowed to follow the line of such ancestors. When any one who adopts a son, though he may be from the same surname but not

in the right line of succession shall receive the same punishment 1084 and the boy shall be sent back to his own family and the parents should select another proper child as an adopted son. If a family of common people should keep a boy or girl of a good family as a slave he shall be punished with 100 blows and the boy and the girl freed.

## II.

"A man who has no son is only allowed to adopt a son of the same surname or clan and, when possible from his brother's children. If there are none them he may take a relative who mourns for nine months or five months, and if there are none of these them he may take from other family or clan, or from the same clan as his own.

"After a son has been adopted should a man's wife bear him a son the property shall be distributed equally between the adopted and the son of his wife.

## III.

"A wife whose husband had died and left no son as an heir, the elders of her husband's family or clan shall assist in selecting an heir in the foregoing manner to be adopted by her. If, after the death of her husband, she would marry a second time she cannot take any of her first husband's property, not even the furniture. All the property at death must be held in the family.

## IV.

"Anyone who has no son may adopt one, provided he should act according to law and if he does so and is dissatisfied he can  
 1085 inform the officials and adopt a good one from the proper line of succession and his clan shall not dispute such right in Court and if anyone who likes his son in law, can keep him in his family and assist each other, the adopted son or his parents shall not be allowed to contrive to expell him from the family and the son in law shall have a right to share part of his property. If the parents of the adopted son are poor they can *they can* sell their property for their support.

"Anyone who adopts a son of a different surname, and he desires to return to his own family, but is prohibited to bring any property of adopted parents to his own family; provided if the child is under three years of age, he can be kept and have his own name changed to that of his adopted parents, but shall not be allowed to follow the line of such ancestors, and the child shall have a right to share part of his property, but the adopted parents shall not be allowed to expell him from the family; if an adopted son try to acquire the property of his adopted parents and tries to perpetrate a fraud he shall be returned to his own family, and according to law shall be punished.

"Anyone who has no son may adopt a son. If the adopted son and the adopted parents become dissatisfied with each other before the adoption is complete, he may adopt another son from the proper line of succession, but if his clan attempt to conspire for to be his adopted son and to acquire his property, such right shall be  
 1086 settled in the Court of the local Official who shall warn them and decide which one shall be the proper one to be selected as the adopted son. If a man's son has died after he was married his wife may still remain in his family; if the son dies after he becomes engaged to a girl and not yet married, the girl can decide not to marry again, if the son died in manhood or not married and it happens that he should die or be killed in war or in the service of the Government, then in those cases his father shall choose a son to be his son's adopted son. If his clan in the right line of succession has no proper son to be adopted as his son and whose father has no other son by this means the father may adopt a son for himself until the father has a grandson *them* his grandson should be the dead son's adopted son. If among common people the son dies before reaching manhood and is not married, *them* the father need to adopt another in his place. If one who has only one son and he dies in childhood and in his clan, right line of succession, there is no proper son to be adopted by his father, *them* he shall be allowed to adopt a son for his son who died and was unmarried; if the parents of the son to be adopted have the only the one, and the son and the parents are greatly attached to each other and declare their affection before the clan or family and agree to the adoption *them* both families are allowed such adopted son and he may be adopted and be a son to both his true parents and his adopted parents.



1087 "Anyone who disputes the right of a party to be an adopted son and one of them is killed, those who contrive and dispute such right of the son to be adopted and whose family gave help to them, none of them shall be allowed to be the adopted son, and then a son should be selected by the public clan "

"Distribution, Chap. 14, Vol. 8, Statutes Tai Ching Dynasty.

"All clans or families have elders and younger. The elder is the administrator of the property and if the younger men of members of the family or clan use the property without the knowledge of the elders of the family he shall be flogged 20 blows if he spends 10 Taels, and for each additional 10 taels spent he shall be flogged by an additional 20 blows. If the elder of the family distributes the property unjustly he shall be punished in the same way.

"Property shall be distributed equally among the sons of the wife and the concubines. Bastard sons outside the family cannot inherit. Bastard sons shall receive one-half as much as the other sons when brought into the family and when they recognize the wife as their mother. If there are no natural heirs then the adopted sons will inherit. If there are adopted and bastard sons in the family they shall share alike.

"If a family have no children and no proper adoption then the property goes to the true daughter; and there being no daughter then the property goes to the local official of the Chinese  
1088 Government to be held as the property of the Government.

"Wife and Concubine—Chap. 3, Vol. 10. If a man who has a wife and a concubine makes his wife his concubine and his concubine his wife he shall be punished with 100 blows.

"If a man separated from his wife taken a concubine as his wife while the first wife is living he shall be flogged 90 blows and the second wife shall be treated thereafter as a concubine.

"If a man having a wife marries another he shall be flogged 90 blows and the second wife must return to her parents.

"UNITED STATES OF AMERICA,

*"Philippine Islands, City of Manila, ss:*

"Personally came and appeared before me, the undersigned authority, a Notary Public in and for the city of Manila, Philippine Islands, Chow Chan, who, after first being sworn according to law, on oath, deposes and says: That he is a native of Honolulu, of the Hawaiian Islands, of Chinese Parentage, on both sides, that is to say, father and mother; that he is familiar with, understands, writes and reads the Chinese Characters and the Chinese language in general and in detail and particular with regard and respect to the above and foregoing; that the above and foregoing—consisting of

five pages—is a true, proper, correct and literal translation,  
1089 as near as is possible, of the laws and statutes therein referred to and translated in item and pertaining to the System of Adoption under the Statutes of the Tay Ching Dynasty; that he,



the deponent has exercised due and extreme care in such translation and to the best of his ability and as is proper in the premises.

"Further deponent sayeth not:

(Sgd.)

"CHOW CHAN.

"Subscribed and sworn to before me this 10th day of May, A. D. 1907, in the city of Manila by deponent, he exhibiting to me his Personal Cedula No. a-888, issued at the city of Manila, Philippine Islands, on the 4th day of January, 1907, such Cedula giving deponent's age as 23 years, occupation clerk, and residing at 80 Calle San Jacinto, city of Manila, Philippine Islands.

(Sgd.)

"W. H. BISHOP,

*Notary Public.*

My commission expires December 31, 1908.

"(Notary Seal and 20¢ stamp.)

"I hereby certify that I have examined the foregoing translation and find the same substantially correct.

(Sgd.)

"SU YUTCHU,

*"Consul General of China in and for  
the Philippine Islands.*

"May 11, 1907."

That at the time of the filing of the complaint in this cause the plaintiffs had no knowledge of the exact terms of the foreign law or that it was generally held to be the best practice to 1090 plead the foreign law the same as any other fact.

That the Code of Civil Procedure of the Philippine Islands is silent upon the subject.

That an exact copy of the law of which plaintiffs wished to avail themselves is found in the record in the Chinese language, accompanied by a correct translation, hereinbefore set out.

Wherefore, plaintiffs ask that they be given permission to amend their complaint and that the above-mentioned law be considered a part of the complaint, so that the allegations thereof may conform to the evidence in the case.

Manila, August 29, 1908.

(Signed)

C. W. O'BRIEN,

*One of Counsel for Plaintiffs.*

Received copy this 3rd day of September, 1908.

(Sgd.) ROSADO, SANZ & OPISSO.

" M. LEGASPI FLORENDO.

" C. LEDESMA.

Thereafter and on the 21st of October, 1908, the case was duly argued and submitted in the Supreme Court, both parties being represented by their respective attorneys.

Thereafter and on the 27th of August, 1909, counsel for plaintiffs

filed a motion in the Supreme Court, which said motion is in the words and figures following, to-wit:

(Title of Court and Cause Omitted.)

1091 "To the Defendants or their attorneys:

"You are hereby notified that on September 6th, 1909, at 9 a. m. or as soon thereafter as counsel can be heard, the plaintiffs in the above entitled action will move this Honorable Court that Gregorio Sy Quia, the receiver in this case, be discharged and that the Court appoint a new receiver and take the requisite security. The affidavit attached hereto and the record of this case in the Court of First Instance are made a part of this motion.

"Manila, P. I., August 27, 1909.

(Signed)

"W. H. BISHOP,

"C. W. O'BRIEN,

"Attorneys for Plaintiffs,

"18 Plaza Cervantes, Manila.

"Received copy:

(Signed) "ROSADO, SANZ & OPISSO.

" "HAUSSERMANN, ORTIGAS,

"COHN & FISHER.

" P. P.  
"M. LEGASPI FLORENDO.

(Title of Court and Cause Omitted.)

"Affidavit.

"CITY OF MANILA,

"Philippine Islands, ss:

"Comes now Sy Joc Lieng, and after being sworn in due form deposes and says:

"1. That he is one of the plaintiffs in the above entitled action and that he has investigated, so far as possible, the acts of the Receiver Gregorio Sy Quia;

"2. That the Receiver has failed and neglected to  
1092 take charge of the property for which he was appointed, and that it is his opinion and belief that he never intended to take charge of said property;

"3. That the Receiver has rendered no accounting as ordered nor made any report whatsoever why he has failed to take charge of the property;

"4. That the property is being allowed to deteriorate for want of the necessary repairs;

"5. That the defendants are collecting the rents and appropriating them to their own use, and using them the same as if no receiver had been appointed, and as though the property was theirs and that they are neglecting to take care of the property as they should do, as the property is not repaired, painted or looked after as it should be done.

(Signed)

"SY JOC LENG.

"Subscribed and sworn to before me this 27th day of Aug., 1909, and exhibited cedula No. F-32384, dated Manila, P. I., February 16th, 1909.

(Signed)

"C. W. O'BRIEN,

*"Notary Public.*

"My Commission Expires Dec., 31st, 1910."

In opposition to the foregoing motion counsel for defendants submitted the following affidavit:

(Title of Court and Cause Omitted.)

"CITY OF MANILA,

*"Philippine Islands, ss:*

"Pedro Sy Quia, after being first duly sworn, deposes  
1093 and says:

"That he is one of the defendants in the above-entitled  
cause.

"That he is also the judicial administrator of the Estate of Petronila Encarnacion, deceased, and the guardian of the property of Genroso Mendoza, a prodigal.

"That he is in charge of part of the property here in litigation in his capacity as administrator of the estate of Petronila Encarnacion, and that he has been administering the same under the supervision of the court before which this case was tried.

"That the appointment of a receiver in this case did not set aside the testamentary and guardianship proceedings above referred to.

"That for the property not included in the inventory in those proceedings, the receiver appointed therein has given bond in the sum of P400,000.00 to the satisfaction of the court, as appears on page 49 of the printed bill of exceptions.

"That he is well acquainted with the property of his brothers, the other defendants in this cause, and that he is fully informed of the condition in which such property is.

"That absolutely all the property in which the plaintiffs may have an interest is being taken care of and duly preserved with the diligence that the most careful administrator could exercise, under the supervision of the receiver, who is responsible for the  
same.

1094 "That by an order of the Court of First Instance, dated March 17, 1908, and which appears on page 50 of the bill of exceptions, the court ordered that the defendants Pedro and Juan Sy Quia should submit an inventory of their property on or before the 23rd day of March.

"That although the said order was not complied with on the date therein stated, for the reason that the court did not file the same with the clerk until the 26th, that is to say, three days after the time allowed therein had expired, it was nevertheless duly complied with subsequently to the satisfaction of the court.

"That the property here in litigation is not in danger of disappearing or being lost or suffering any damage.

(Signed)

"PEDRO SY QUIA.

"Subscribed and sworn to before me by Pedro Sy Quia this 4th day of September, 1909, deponent having exhibited to me his personal cedula No. 26, issued at Manila, January 2, 1909.

(Sgd.)

"ANTONIO SANZ,

"Notary Public.

"My Commission expires December 31st, 1910."

"(Stamp)"

Thereafter and on the 5th of October, 1909, the following stipulation was filed in the Supreme Court:

(Title of Court and Cause Omitted.)

"The undersigned as counsel for the respective parties 1095 in the above-entitled cause hereby inform the court that they mutually agree that in the discussion and decision of this case Mr. Justice Elliott take part.

"Manila, October 4, 1909.

(Signed)

"W. H. BISHOP,

"C. W. O'BRIEN,

"Counsel for Plaintiffs.

(Sgd.)

"HAUSSERMANN, ORTIGAS,

"COHN & FISHER,

"By MAURICIO ORTIGAS,

"Counsel for Defendant Gregorio Sy Quia."

(Sgd.)

"ROSADO, SANZ & OPISSO,

"Counsel for Defendants Pedro Sy Quia  
and the Estate of Petronila Encarnacion.

(Sgd.)

"PEDRO SY QUIA,

"Guardian of the Defendant Generoso Mendoza."

Thereafter and on the 19th day of March, 1910, the Supreme Court of the Philippine Islands rendered its decision, which was published in the Official Gazette, September 14, 1910, copy of which follows:

1096

*Decisions of the Supreme Court.*

[No. 4718. March 19, 1910.]

SY JOC LIENG, SY YOC CHAY, SY JUI NIU and SY CHUA NIU, Plaintiffs, Appellees and Appellants,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA, Juan Sy Quia and Generoso Mendoza Sy Quia, Defendants, Appellants and Appellees.

Per TORRES, J.:

1. Action to Enforce Right to an Inheritance: Burden of Proof.—An action to enforce the right to an inheritance can not properly be maintained by the descendants of a person in the capacity of legitimate successors and heirs, when at the trial the claimants of such inheritance do not prove the marriage of their ancestor nor that of the alleged children of the latter, nor the paternity and filiation of the claimants.

2. Children: Legitimacy; Conjugal Property.—The marriage contracted in good faith, although it afterwards be declared null and void, nevertheless, produces civil effects with respect to the spouse who acted in good faith and the children begotten in such marriage, which latter are considered by law to be legitimate, the same as though they had been born of parents lawfully married, and the deceived husband or wife is fully entitled to the enjoyment of one-half of the property acquired during the conjugal partnership afterwards dissolved by the annulment of the marriage.

3. Person Contracting Marriage in Bad Faith not Entitled to Community Property.—The husband or the wife who acted in bad faith is not entitled to one-half of the community property that otherwise would have fallen to his or her share, which half of the property is conveyed by operation of the law to the innocent husband or wife, the one who acted in bad faith being deprived of it.

4. Effect of Annulment of Marriage.—The annulment of the marriage by the courts abolishes the legal character of the society formed by the putative spouses, but it can not destroy the juridical consequences which the marital union produced during its continuance.

5. Action to Enforce Hereditary Rights, Brought After Promulgation of Civil Code.—The right to inherit while the predecessor in interest is living, is a mere expectancy, a potential right, and not until the decease of the person whose succession is concerned can the hereditary right be deemed to have arisen or to be duly acquired; therefore an action concerning hereditary rights, brought subsequent to the promulgation of the Civil Code, must be tried and decided in accordance with the provisions thereof.

6. Chinese Residents of Philippine Islands; Law Applicable to Distribution of Estates.—The Chinaman who obtained from the Government of the Islands permission to reside therein, and who con-

tinued to live in the Islands for more than fifty years, and engaged in trade and traffic in the products of the soil, married a native woman, established himself in a home of his own, acquired real estate, and declared in various public documents that he was a resident of the Islands and a property owner, undeniably acquired the character of a resident in these Islands domiciled therein, in accordance with the laws in force prior to the enactment of the Civil Code, and therefore the questions raised in a litigation in which his estate is claimed, must be tried and decided in conformity with the laws in force in these Islands, to which the Chinaman who solicited permission to reside and gained residence therein, submitted, and for the further reason that the greater part of the property left by him is real estate.

7. Existence of Foreign Law Must Be Proved as a Question of Fact.—When in a litigation the application of a foreign law, for example the law of China, is sought, it is necessary to prove before the courts of the Islands, in a satisfactory manner, the existence of such a law as a question of fact; and when proof of such a law is lacking, it is improper to apply unknown laws to suits pending before the courts of the Islands.

8. Judgment not Sustained by the Evidence Should Be Reversed.—A judgment not sustained by the result and weight of the evidence adduced at trial should be reversed, inasmuch as the final decision of the suit must be consistent with the facts alleged and satisfactorily proven at the trial.

Per JOHNSON, J., dissenting:

9. Husband and Wife; Double Marriage; Good Faith; Division of Conjugal Property.—S, a Chinaman, in 1847 married a Chinese woman in China, in accordance with the laws and customs of China. In 1852, without the first marriage being dissolved, he married another woman in the Philippine Islands, in accordance with the laws and customs of the Philippine Islands. The second wife at the time of the marriage was ignorant of the existence of the first wife. As a result of the first marriage two children were born and of the second marriage five children were born. After the death of S, who had accumulated property during the existence of the second marriage, his estate was duly distributed between the second wife and the children of the second wife, by the courts of the Philippine Islands. Later, the children of the first marriage, and their descendants, brought an action in the courts of the Philippine Islands, demanding a portion of the estate of S; Held, that inasmuch as the second marriage was entered into in good faith on the part of the second wife, the first marriage being legal, that each wife was entitled to one-half of the property acquired during the second marriage; that for the purposes of distribution of the said property, the wives were each regarded as legitimate in law, and that the children of each marriage succeeded to the interest which their respective mothers obtained from the common husband.

10. Legitimacy; Husband and Wife.—Where a man marries a second wife while a first is still living, the second wife having no



knowledge of any existing impediment to such marriage, and entering into the marriage relation in good faith, such second wife, for the purpose of participating in the conjugal property, will be regarded in law as a legitimate wife.

11. Legitimacy; Children.—Children born of a second marriage, entered into in good faith on the part of the wife, before the first marriage has been dissolved or annulled, for the purpose of inheriting the mother's interest in the conjugal property, will be regarded as legitimate. Legitimacy depends upon the *lex fori* or the *lex domicilii*. The law of the place of birth, as a general rule, governs legitimacy.

12. Nullification of Marriage; Effect of Such Nullification.—Article 1417 of the Civil Code is not applicable to a case where a man or a woman has a legitimate wife or husband and children and marries a second wife or husband. It was not the intention of the wise Spanish legislators to give said article an interpretation which would prejudice a prior legal wife and legitimate children. It was not the intention of the Spanish legislators to punish the first wife and children by giving all of the property to the second wife. The first legitimate wife and children, who committed no wrong, should not be punished by depriving them of their legitimate interest in their husband's and father's estate. The wise legislature of the Spanish Government, assisted by the pure motives and high ideals of the Holy Roman Catholic Church, never intended that article 1417 should receive the interpretation contended for in the majority opinion. Property, under the facts in the present case, should be distributed in accordance with law 1, title 13, *partida* 4.

13. Laws Governing Rights of Succession.—The right of succession to property by inheritance is determined, as to personal property, by the laws of the residence of the parties, and as to real property by the laws of the location of the property.

14. Probate Courts; Probation of Estates.—A decree of a probate court ordering a will to be executed or an estate to be distributed, does not amount to a judgment binding on those who were not parties to such proceedings. Parties interested in an estate and who were not made parties to the probation of such estate, may bring an action to secure their interest therein.

15. Interest Upon Shares of an Estate.—Persons who have possession of money or property in good faith, which of right belong to others, are not liable to pay interest upon such money or property, or rent for the use and occupation of the same, except from the date of a judicial demand.



Appeal from a Judgment of the Court of First Instance of Manila.

CROSSFIELD, J.:

The facts are stated in the opinion of the court.

Bishop & O'Brien, for plaintiffs, appellees and appellants.  
Rosado, Sanz & Opisso, M. Legazpi, and Ledesma & Sumulong,  
for defendants, appellants and appellees.

TORRES, J.:

On the 4th day of December, 1905, the said Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu and Sy Chua Niu filed an amended complaint against the said defendants, alleging: That in or about the year 1823 one Sy Quia, subsequently known in these Islands as Vicente Romero Sy Quia, was born in China, and in or about the year 1847 was married in the city of Amoy to Yap Puan Niu, of which marriage the following children were born, to wit: Sy By Bo and Sy By Guit, they being the only legitimate heirs of the said Vicente Romero Sy Quia; that in or about the year 1882 Sy By Bo died intestate in China, leaving as his only surviving children and legitimate heirs the plaintiffs Sy Yoc Chay and Sy Jui Niu; that in or about the year 1880 the other child of Sy Quia, Sy By Guit, also died intestate in China, leaving as his only surviving children and legitimate heirs the other plaintiffs, Sy Joc Lieng and Sy Chua Niu; that in or about the year 1891 Yap Puan Niu died intestate in China, leaving her surviving husband, Sy Quia, and her grandchildren, who are the plaintiffs in this case; that in the year 1894 Vicente Romero Sy Quia died intestate in this city of Manila, leaving his surviving grandchildren, the plaintiffs, as his only legitimate heirs; that Vicente Romero Sy Quia acquired during his lifetime a large amount of property, consisting of personal and real property in the Philippine Islands, mostly located in the city of Manila, amounting to P1,000,000 Philippine currency; that on or about the 3d of August, 1900, the defendants illegally, without any rights, and in the absence of the plaintiffs herein, took possession of all the said personal and real property left by the said Sy Quia, deceased, and since then have managed and administered the same, alleging to be the owners thereof; that since the said 3d day of August, 1900, the defendants and each of them have converted and are converting part of the property of the said Sy Quia, deceased, to the use and benefit of each of them, and a large part of the said property, consisting of real and personal property unknown to the plaintiffs, they being in possession thereof as owners, exercising over them acts of ownership, and converting them to their own use; that it has been impossible for the plaintiffs to discover, ascertain, and have knowledge of each and all the real and personal property belonging to the said Vicente Romero Sy Quia, deceased, at the time of his death, nor the amount of personal and real property converted by the defendants, except such property as is described in the accompanying document, marked "Exhibit A," which is a part of the

1097 complaint; that the property described in said document, is a part of the estate left by the deceased Sy Quia at the time

of his death, aside and apart from the personal and real property converted by the defendants, who are and each one of them is in possession and custody of all the deeds, instruments, contracts, books, and papers relating to the title and conversion of the said real and personal property, which titles and the descriptions thereof could not be proven without the sworn statements of the defendants and of each one of them; that the plaintiffs are informed and believe that the said real and personal property, belonging to the estate of the said Sy Quia, and which is now held and controlled by the defendants, has a value of approximately P1,000,000, Philippine currency; that the plaintiffs are the only descendants and legitimate heirs of the deceased Sy Quia, they being entitled to the possession of all the property of his estate, as well as of the real and personal property converted as aforesaid, and the defendants having appropriated the same, with all the rents and profits thereof, it is impossible for the plaintiffs to ascertain and discover the true amount of the said rents and profits, which aggregate several thousand pesos, all of which said property is in danger of being lost, to the irreparable damage of the plaintiffs, unless and except a receiver is appointed to take charge of the preservation and custody of the same, in order to protect the interests of the said plaintiffs, and enable the court to determine the actual value of the real and personal property of the estate at the time of the death of the said Sy Quia, as well as the value of the real and personal property subsequently converted by the defendants, together with the rents and profits of the whole estate, converted by the defendants to their own use and benefit, wherefore it is necessary that said defendants be required to render detailed accounts of the real and personal property and rents and profits of the estate, and that it be ascertained by the sworn statement of the said defendants what the actual value of the real and personal property of the said estate, with the rents and profits, thus converted and held by them, is. They accordingly prayed that defendants be directed to render under oath a complete and detailed account of all the property left by Sy Quia at the time of his death, of the administration, custody, control, conversion and disposal thereof, of the conversion of the same, and of the rents and profits of the original property, as well as of the property thus converted, including in the said accounting both such properties with the rents and profits; that a receiver be appointed to administer, upon the giving of the necessary bond, the original property, as well as the property converted, during the pendency of the present litigation, the said complete and detailed account under oath as aforesaid to be submitted to the court, covering the original property as well as the property converted, with all rents and profits, and that thereupon a receiver be appointed to take charge and control of the administration of the whole of said property.

They further prayed that it be adjudged and decreed that the defendants are the only descendants and heirs of the said Vicente Romero Sy Quia from and since the time of his death, and that they are the only legitimate owners of the real and personal property left by him, and of the whole of said property converted by the

defendants, and that they are entitled to the possession of the whole of the said property and the rents and profits accruing therefrom; that it be decreed that the defendants have not and never had any right, title or interest to the said property, nor to the rents and profits thereof, the same being held by them as mere trustees for the benefit of the plaintiffs and each of them, further praying for any other relief which the court may deem just and equitable, and for the costs of this action.

*Answer.*

The defendants, Petronila Encarnacion, Pedro Sy Quia, and Juan Sy Quia, answering the foregoing complaint, specifically deny paragraphs 1, 2, 3, 4, 5, and 6 of the complaint, which relate to the paternity and status of the plaintiffs, and to the death of their grandmother and parents, and also deny generally all and each of the allegations contained in paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of the complaint relating to the succession and actual condition of the estate of the deceased Sy Quia, except as otherwise expressly admitted as true in the said answer; that as a special defense and in opposition to the complaint, the defendants allege that prior to the year 1852 Vicente Ruperto Romero Sy Quia was an infidel known only by the name of Sy Quia, he having resided in the Philippine Islands for many years prior thereto; that on June 8, 1852, the said infidel Chinaman Sy Quia was converted to the Christian religion, and was baptized in the parish church of San Vicente, Province of Ilocos Sur, Philippine Islands, with the name of Vicente Ruperto Romero Sy Quia, as shown by his certificate of baptism marked "Exhibit 1," and made an integral part of the answer; that on June 9, 1853, the Christian Chinaman Vicente Ruperto Romero Sy Quia contracted canonical marriage in accordance with the laws then in force in these Islands, with the defendant Petronila Encarnacion, a native of Vigan, Ilocos Sur, as shown by his certificate of marriage marked "Exhibit 2," which is made an integral part of the answer; that the said Vicente Sy Quia and his wife, Petronila Encarnacion, fixed their residence and conjugal domicile in these Islands until the dissolution of the conjugal partnership by the death of the husband on January 9, 1894; that at the time of their marriage Vicente Romero Sy Quia had no property, and brought no property into the marriage, but that the wife brought to the marriage a small capital which was the foundation of the subsequent fortune acquired by the spouses by their labor and industry, and by the labor, and industry of the children, who were five in number, and are named Apolinaria, Maria, Gregorio, Pedro and Juan, all of whom have always been in continuous possession of the status of legitimate children, in lawful wedlock begotten of the said Vicente Romero Sy Quia and Petronila Encarnacion, according to the copies of the certificates of baptism marked "Exhibits 3, 4, 5, 6 and 7," to be considered as an integral part of the answer; that on January 9, 1894, Vicente Romero Sy Quia died intestate in the city of Manila, and after the necessary legal proceedings under the legislation then in

force, his surviving children, Apolinaria, Gregorio, Pedro and Juan, and his grandchild Generoso Mendoza, representing his mother, Maria Romero Sy Quia, deceased, were declared by a decree of the Court of First Instance of the district of Quiapo, dated January 26 of the said year, to be the heirs abintestate of the said deceased, as shown by a copy of the said decree, marked "Exhibit 3," as an integral part of the answer, Apolinaria Romero Sy Quia, one of the children recognized as heirs of their deceased father, having died on the 1st of May, 1900, leaving as her only legitimate heir her surviving mother, Petronila Encarnacion; that since January 9, 1894, when Vicente Romero Sy Quia died, the defendants have been in quiet, peaceful, and uninterrupted possession as owners in good faith and with a just title, of the property which constitutes the estate of their deceased father, they never having been heretofore disturbed therein by the plaintiffs or any of them; notwithstanding the fact that the said plaintiffs were here in the Philippine Islands, and all the property included in the inventory made at the time of the partition of the estate of the deceased Sy Quia, was acquired by him subsequent to the year 1853, when he married the defendant Petronila Encarnacion; that a great portion of the real property included in the said inventory was acquired by Petronila Encarnacion after the death of her husband, and that in the title deeds of a considerable portion of the property bought during the lifetime of Sy Quia, Petronila Encarnacion appears as the vendee, wherefore the defendants Pedro Sy Quia, Juan Sy Quia, and Petronila Encarnacion prayed the court that they be acquitted of the complaint, with the costs against the plaintiffs, and that they, the defendants, be granted such other and further relief as might be just and equitable.

The other defendant, Gregorio Sy Quia, answering the complaint, denied all and each of the allegations therein contained, and further specifically denied that Sy Quia had married in or about the year 1847 at Amoy, China, the Chinese woman Yap Puan Niu, and that the said Sy Bi Bo and Sy By Guit were the legitimate children and heirs of the deceased Sy Quia, also that the plaintiffs Sy Joe Lieng, Sy Joe Chay, Sy Jui Niu and Sy Chua Niu were the grandchildren and legitimate heirs of the deceased Vicente Romero Sy Quia; that as a special defense he alleged that the deceased Sy Quia many years prior to 1852 while a non-Christian Chinese subject, definitely fixed his residence and domicile in the Philippine Islands, subjecting himself to the laws then therein in force; that in the year 1852 Sy Quia was baptized, having been converted to the Catholic faith on the 11th of June of that year, the ceremony taking place at the parish church of San Vicente, he being then named Vicente Ruperto Romero Sy Quia, and on June 9 of the following year he contracted marriage with Petronila Encarnacion in accordance with the rites of the Catholic Church, and in conformity with the laws then in force in the Philippine Islands, as shown by the church certificates marked "Exhibits A and B;" that Sy Quia and his wife Petronila Encarnacion since their marriage continuously resided in the Philippine Islands until the 9th of January, 1894, when the husband died intestate, they having had since their marriage five children, among

them Gregorio, who subscribes this answer, according to canonical certificate Exhibit C; that the deceased Sy Quia brought no property into the conjugal partnership, but Petronila Encarnacion did bring with her the small capital of P5,000, with which, through their labor and industry at first, and subsequently by the labor and industry of their children, they had acquired the large amount of property existing at the time of the death of the husband, said property so acquired being located in the Philippine Islands; that on the 23d of January, 1894, by an order of the Court of First Instance of the district of Quiapo, the surviving children of Sy Quia, named Apolinaria, Gregorio, Pedro, and Juan, and Sy Quia's grandchild, Generoso Mendoza, representing his (Generoso's) deceased mother, Maria Romero Sy Quia, were declared to be the heirs abintestate of the said Sy Quia, as shown by a copy of the said decree, marked "Exhibit D," the defendants having taken possession from that date of the property left by the deceased Sy Quia, they having continued so in possession in the quality of owners, with just title and good faith, adversely; publicly, quietly and peacefully, until the plaintiffs presented their complaint to the court; that on the 1st day of May, 1900, Apolinaria Romero Sy Quia died a spinster and intestate, leaving as her only legitimate heir her mother, Petronila Encarnacion; that the plaintiffs at the time of the death of Vicente Romero Sy Quia had knowledge of his demise, and had notice that the defendants had petitioned to the court for a declaration, which they obtained, to the effect that they were the heirs of the said Vicente Romero Sy Quia, deceased; and that at no time the plaintiffs or their parents were recognized or considered by the said Vicente Ruperto Romero Sy Quia as his descendants, heirs, or relatives; wherefore defendant prayed that judgment be entered declaring that the plaintiffs had no right or interest to or in the estate of the deceased Vicente Romero Sy Quia, and that the defendants are the only legitimate heirs of the said Sy Quia, taxing the costs against the plaintiffs.

The last of the defendants, Generoso Mendoza Sy Quia, answering the complaint on the 18th of January, 1906, alleged that he denied all and each of the allegations contained in paragraphs 1 to 16, inclusive, of the complaint, and that he also specifically denied that the deceased Sy Quia, whose Christian name is Vicente Ruperto Romero Sy Quia, had married at Amoy, China, the woman Yap Puan Niu, in or about the year 1847, or at any time previous or subsequent thereto; that the said Sy By Bo and Sy By Guit were the legitimate children and heirs of the deceased Sy Quia; that the plaintiffs Sy Joc Lieng, Sy Yoc Chay, Sy Jui Niu, and Sy Chua Niu were the legitimate descendants or heirs of the deceased Sy Quia. As a special defense, defendant alleged that the Chinaman Sy Quia came to the Philippine Islands as an immigrant a long time prior to 1852, fixing his residence and domicile therein, and subjecting himself to the laws then in force in this country; that in the said year 1852, Sy Quia having been converted to Christianity, was baptized in the parish church of San Vicente, Ilocos Sur, and named Vicente Ruperto Romero Sy Quia, as shown by the canonical certificates exhibited by the defendants, and marked "Exhibits 1 and A," which are made



a part of this answer; that on June 9 Vicente Ruperto Romero Sy Quia was married by the Church to Petronila Encarnacion in accordance with the canonical laws, as shown by the certified copies of the marriage certificate, marked "Exhibits 2 and B," introduced by the other defendants; that Sy Quia and his wife Petronila Encarnacion established themselves and fixed their conjugal domicile in the Philippine Islands, where they continued to reside until the 9th of January, 1894, when the marriage was dissolved by the death of the husband in Manila; that the said spouses since their marriage had five children, of whom Apolinaria died a spinster, and Maria, who had married, died, leaving a child, the defendant Generoso Mendoza, the grandson of the deceased Sy Quia; the said Generoso Mendoza and the other children of the deceased Sy Quia, named Gregorio, Pedro, and Juan, having survived; that Vicente Romero Sy Quia at the time of his marriage owned no property, while Petronila Encarnacion brought to the conjugal partnership a small capital, amounting to P5,000, which was the foundation of the large fortune subsequently acquired by them through their labor and industry, subsequently augmented with the aid of their own children; that on the 9th of January, 1894, Vicente Romero Sy Quia died, and after the necessary legal proceedings under the law of civil procedure then in force in these Islands, the Court of First Instance by a decree dated the 26th of the said month and year, declared that the surviving children, Apolinaria, Gregorio, Pedro, and Juan, and his grandchild Generoso Mendoza, representing his mother Maria, deceased, were the heirs of the deceased Sy Quia, intestate, as shown by Exhibits 8 and D, introduced by the other defendants; that on May 1, 1900, the oldest daughter, Apolinaria, died intestate and single, leaving as her only heir her mother Petronila Encarnacion; that since the death of the said Vicente Romero Sy Quia the defendants had been in quiet, public, peaceful, and uninterrupted possession of the property left by the deceased Sy Quia, having held the same adversely, with good faith and just title; and that they have never been disturbed by the plaintiffs in such possession, notwithstanding the fact that they, the plaintiffs, were in the Philippine Islands at the time of the death of Vicente Romero Sy Quia, and had knowledge of the fact that the defendants had applied to the Court of First Instance for and secured a declaration to the effect that they were the heirs of the deceased Sy Quia; and that neither the plaintiffs nor the said Sy By Bo and Sy By Guit had ever been recognized or considered by the deceased Vicente Romero Sy Quia, as his descendants, heirs or relatives, they never having been in possession of the legal status of children or legitimate descendants of the said Sy Quia; wherefore this defendant prayed that judgment be rendered in favor of all the defendants, acquitting them of the complaint, and directing that the plaintiffs pay the costs.

1098

*Amendment to the Complaint.*

The plaintiffs on the 31st of January, 1906, presented by way of reply to the answers of the various defendants an amendment to the original complaint, denying generally and specifically all and each of the material allegations set out in the answers of the defendants and alleging that the pretended marriage between Vicente Romero Sy Quia and Petronila Encarnacion was not a lawful marriage, but a false and fraudulent one, without any force, efficacy, or legal validity, the certificate of marriage presented by the defendants not being a true and correct certificate of marriage, the same being false, fraudulent, and without any force, efficacy, or legal validity, for the reason that on June 9, 1853, Vicente Romero Sy Quia was and thereafter continued to be the lawful husband of one Yap Puan Niu, until the year 1891, when she died, and that the marriage of Sy Quia with the said Yap Puan Niu, since 1847 and until her death in 1891, was continuously in full force and effect, Sy Quia not having married again after the death of the said wife; and that Apolinaria, Maria, Gregorio, Pedro and Juan, the alleged legitimate children of Vicente Romero Sy Quia and Petronila Encarnacion, were not and never had been the legitimate children of Sy Quia, and that they were not and never had been his legitimate heirs and descendants, the certificates of baptism produced by the defendants, and marked "Exhibits 3, 4, 5, 6, and 7," not being true nor proper, but false and fraudulent, and of no force, efficacy, or legal validity, the said children not being the legitimate descendants of the deceased Sy Quia. Paragraphs 9 and 10 of the amended complaint are a repetition of similar paragraphs contained in the original.

*Answer to the Amended Complaint.*

The defendants, Generoso Mendoza, Petronila Encarnacion, Pedro Sy Quia, Gregorio Sy Quia, and Juan Sy Quia, filed their answers to the amended complaint on the 7th and 13th of February, 1906, denying all and each of the allegations contained in paragraphs 2, 3, 4, and 5 of the amended complaint, stating that they ratified each and all of the allegations, denials and defenses contained in their previous answer, which they reproduced therein, and that they renewed their prayer that judgment be rendered acquitting them of the said complaint, with the costs against the plaintiffs.

On June 19, 1906, counsel for Petronila Encarnacion notified the court in writing of the death of the said Petronila Encarnacion, who died in this city on the 6th of the said month, and as counsel for the other defendants, Pedro and Juan Sy Quia, moved the court that in accordance with section 119 of the Code of Civil Procedure, an order be made directing that the action be proceeded with in the name of the administrator of her estate, Pedro Sy Quia, which motion was granted without any objection on the part of the plaintiff's attorney, on June 21, 1906.



On August 20, 1906, it was stipulated between counsel for both parties that by order of the court the deposition of several witnesses then designated by the plaintiffs be taken at Amoy, China, before the consul, vice-consul, or a consular agent of the United States in the said city, during the days and in the manner agreed upon, in accordance with section 362 of the Code of Civil Procedure, the defendants being authorized to take the deposition of such witnesses as they might desire to present in the manner agreed upon.

On November 8, 1906, counsel for plaintiffs informed the court of the death of one of the plaintiffs, Sy Jui Niu, at Amoy, China, on or about the 28th of July of the said year, and she having died intestate, the court on November 8, appointed C. W. O'Brien as special administrator of her estate, and said counsel thereupon asked the court to allow the action to be continued by him, and, by a subsequent petition filed on the 13th of the same month, the administrator C. W. O'Brien, appointed as aforesaid, filed a written appearance as such administrator of the estate of the deceased Sy Jui Niu.

On a petition filed on the 17th of November, 1906, counsel for both parties informed the court that the documents presented by the defendants, and marked "Exhibits 1, 2, 3, 4, 5, 6, and 7, and A, B, and C," which are certificates of baptism, marriage, and burial, should be considered as original and authentic documents, so as to avoid the necessity of presenting the originals themselves, which were bound in book form, together with other documents relating to persons who had no connection with this litigation.

On the 4th of January, 1907, the defendants presented a motion to the Court of First Instance, asking that the depositions taken before the consul of the United States at Amoy, China, as given by the witnesses for the plaintiffs, named Li Ung Bing, Sy Peng, Lim Chio, Yap Si Tan, Yap Chia, Sy Kai Tit, Yap Chong, Sy Boan, Sy Kong Len, and Sy Hong Oan, whose testimony the plaintiffs attempted to introduce in this action, be not admitted, defendants' motion being based on the ground that the said depositions contained a formal defect concerning the manner in which the oath was administered to the witnesses.

In a petition filed on the same date, January 4, the defendants reproduced their former motion, alleging as a further ground in support thereof that the certificates by the officer who took the said depositions did not comply with the essential requisites provided by law, and after due notice to the plaintiffs, a hearing was had upon the said petition on January 7, 1907. After the recital of the evidence introduced by both parties, and after the documents exhibited by them, together with the depositions taken at Vigan of various witnesses for the defendants, and of the depositions taken at Amoy, China, had been united to the record, the Court of First Instance on the 26th of February, 1908, rendered a judgment declaring that the plaintiffs Sy Joc Lieng, Sy Yoc Chay, Sy Chua Niu, and C. W. O'Brien, the latter as guardian of Sien Han, and the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, and Generoso Mendoza Sy Quia, and the heirs of the deceased Petronila Encarna-

cion, represented by one of the defendants, Pedro Sy Quia, as the administrator of the property, were the heirs of the property of the estate of Vicente Romero Sy Quia, now deceased, consisting of one-half of the property distributed by the order of the Court of First Instance of the district of Quiapo of the 3d of August, 1900, in the following form: To Sy Joc Lieng, one-ninth; Sy Yoc Chay, one-ninth; Sy Chua Niu, one-ninth; C. W. O'Brien, as the guardian of Sien Han, one-ninth; Pedro Sy Quia, one-ninth; Juan Sy Quia, one-ninth; Gregorio Sy Quia, one-ninth; Generoso Mendoza Sy Quia, one-ninth; and the heirs of Petronila Encarnación, represented by Pedro Sy Quia as the administrator of the latter's estate, one-ninth; the heirs of the said Petronila Encarnación, represented by the administrator of her estate, being the owners with the right to possession of the other half of the property left by Vicente Romero Sy Quia at the time of his death.

That the defendants, Gregorio, Pedro Juan, and Generoso, and Pedro Sy Quia, as the administrator of the property of his mother Petronila Encarnacion and as a representative of the latter's heirs, render a statement of the property which was distributed among them under and by virtue of the order of the Court of First Instance, of the 3d of August, 1900.

That the said defendants and each of them render an accounting of the rents and profits of all the property respectively received by them from the dates when they were delivered to them, it being understood that if upon making the inventory of the property it appears that the portion thereof assigned to Petronila Encarnacion as her share does not exceed one-half of all the property left by Vicente Romero Sy Quia, at the time of his death, it will not be necessary to render an accounting of the rents and profits of the portion to her thus assigned.

That a receiver, to be selected later, be appointed upon the giving of a sufficient bond, the amount of which will be hereafter fixed, to take charge and possession of all the property known as aforesaid, it being understood that if upon making a list of the said property it appears that the part thereof assigned to Petronila Encarnacion as her share does not exceed one-half of all the property of the estate of Vicente Romero Sy Quia at the time of his death, the said receiver shall only take possession of one-half of the property assigned to the other persons who have accounted for them. The Court of First Instance made no special order as to costs.

To this decision of the trial court counsel for the defendants, Pedro Sy Quia, by himself and as administrator of the estate of Petronila Encarnación, Juan Sy Quia, Gregorio Sy Quia, and Generoso Mendoza, duly excepted, and by a motion presented to the court asked that the said judgment be set aside and a new trial granted, on the ground that the evidence was insufficient to justify the decision in favor of the plaintiffs, and because the decision of the trial court was contrary to law, the findings of fact being plainly and manifestly against the weight of the evidence, and upon notice to counsel for plaintiffs, a hearing was had upon said motions, which were subsequently overruled by the court, defendants having duly

excepted to the order of the court overruling the same, and upon filing their bill of exceptions, asked the court to unite to the same all of the evidence taken and introduced by both parties, with the documents and pleadings presented during the course of the trial, as well as the transcript of the stenographic notes containing the testimony of the witnesses, and the depositions taken at Vigan and Amoy, which said bill of exceptions defendants asked the court to approve and certify to the Supreme Court, with all of the said evidence which was made an integral part thereof.

By an order entered on the 28th of March, 1908, the court upon certifying the bill of exceptions, directed that the execution of the judgment be not stayed in so far as it required the defendants to submit a statement showing the property received by them, and to render an account of all the rents and profits, upon giving a bond satisfactory to the court, to secure the fulfillment of the judgment in case the same be totally or partially affirmed by the Supreme Court.

The trial court in deciding the motion for the appointment of a receiver, and after hearing both parties, made an order on the 17th of March, 1908, appointing Gregorio Sy Quia as receiver of the property in question, upon the giving of a bond in the sum of P400,000, to be approved by the court, and in case that the person thus appointed did not accept, the appointment would be set aside, and a stranger duly qualified substituted. To this order of the court the defendants Pedro Sy Quia and Juan Sy Quia duly excepted, and on the 27th of March, 1908, there was united to the proper files the personal bond for P400,000 given by the receiver.

By another order made on the said 17th day of March, the court in deciding the motion that a time be fixed within which the defendants should report to the court whatever property belonged to the deceased Vicente Romero Sy Quia, distributed among them, directed that the defendants Juan Sy Quia, Generoso Mendoza and Pedro Sy Quia, the latter by himself and as administrator of the estate of Petronila Encarnacion, submit a statement of the property distributed among them under and by virtue of the order of the 3d of August, 1900, and on or before the 23d day of March, 1908, and that Gregorio Sy Quia submit a similar statement on or before the 31st day of the said month and year.

Pedro Sy Quia and Juan Sy Quia excepted to this order of the court dated March 17th as aforesaid, requiring them to submit a statement of the property they had received, and asked the court to approve and to have united to the original bill of exceptions, the additional one duly presented by them, and notwithstanding the objection of counsel for plaintiffs, the court by an order dated April 4, 1908, certified the supplementary bill of exceptions; and considering that the appointment of Gregorio Sy Quia as receiver was made at the suggestion of the defendants in open court, whereupon the amount of the bond was fixed with the knowledge of the defendants, also the order of the court directing that a statement of the property received by the defendants be submitted to the court within a specified time, the court ordered that the execution of the judgment be

not stayed in so far as the latter order of the court was concerned, and the original bill of exceptions, together with the supplementary one, was duly forwarded to the clerk of this court in connection with the appeal taken and allowed.

The plaintiffs, upon being notified of the said judgment of the court, excepted thereto, and requested in writing that the court modify its decision and conclusions of law by declaring that the plaintiffs Sy Joc Lieng, Sy Yoc Chay, Sy Chau Niu, and C. W. O'Brien, as the guardian of Sian Han, were the only heirs of Vicente Romero Sy Quia, deceased; that they were entitled to all the property left by the latter, and distributed under the order of the court of the 3d of August, 1900; that Petronila Encarnacion, deceased, and her children and heirs had no interest in the said estate of Sy Quia; that they were not the heirs of the deceased Vicente Romero Sy Quia; that the receiver appointed by the court be authorized to take possession of all the property left by the said deceased, especially the property which was distributed by the decree of the court of the 3d of August, 1900, together with the rents and profits, and that the said judgment be modified, awarding the plaintiffs the costs of the action, and directing that defendants submit an accounting of the property in litigation.

This action has for its purpose primarily to recover from the present possessors the property left at the time of his death in this city by the Christian Chinaman, Vicente Romero Sy Quia, the plaintiffs alleging that three of them are the grandchildren and one the great-grandson of the deceased Sy Quia by his lawful marriage in his own country with their deceased grandmother, Yap Puan Niu. So that the marriage of the said Sy Quia with this woman in China is practically the fundamental basis of the action brought by the plaintiffs for the recovery of the inheritance against the defendants, who appear to be the children of the deceased Sy Quia by his marriage in these Islands with the native, Petronila Encarnación.

Does the record show that the Chinaman Sy Quia removed from Vigan, Philippine Islands, to his native town or village of Am Thau, Amoy, China, in 1847, and then married in accordance with the rites and ceremonies of his native country, Yap Puan Niu?

Plaintiffs having failed to present at the trial the matrimonial letters which should have been exchanged between the contracting parties at the time the said marriage was performed, according to the ancient laws and customs of the Celestial Kingdom, and there being no allegation in the complaint as to the day and month of the common calendar year, or of the Chinese calendar year, when the said marriage took place, there is no ground on which to base the conclusion that such an important act in the life of Sy Quia has been duly established by authentic documents, nor is his alleged voyage to China from the port of Manila for the purposes of contracting such marriage, satisfactorily proven thereby, for the plaintiffs have likewise failed to introduce in evidence the passport, required by the legislation then in force, which should and would have been then issued to Sy Quia in order to enable him to leave this country and return to his own. (See decree of December 20, 1849.)

Seven witnesses, named Sy Peng, Lim Chio, Yap Si Tan, Yap Chia, Sy Kai Tit, Yap Chong, and Sy Boan, whose respective ages are not less than 71 nor more than 80 years, in 1099 their testimony or depositions before the vice-consul of the United States at Amoy, having promised to tell the truth, affirmed through an interpreter that they were present at the ceremony of the wedding of the said Sy Quia with the Chinese woman Yap Puan Niu; that Sy Quia, who was in these Islands, having been expressly called to China by his father for the purpose of marrying the said Yap Puan Niu, accordingly returned to his native town or village of Am Thau, and, after being married to Yap Puan Niu, remained in the said village three or four years with his wife, by whom he had two children, Sy By Bo and Sy By Guit, the latter having been born one year after the birth of the former.

To overcome the testimony of the witnesses for the plaintiffs, the defendants presented nine witnesses, to wit: Felix Millan, Aniceto Singson, Norberta Feril, Remigio Tongson, Estefania Crisologo, Alejandra Singson, Benita Encarnacion, Paulino Revilla, and Silveria Damian, whose respective ages were not less than 71 nor more than 87 years, except Aniceto Singson, who was only 66 years of age, who testified, some of them in the Court of First Instance of Manila, and the others before the justice of the peace of Vigan by virtue of a commission, that they knew Sy Quia when he was an unmarried resident of the city of Vigan, for six or seven years according to most of the said witnesses, and for five years according to others, prior to his marriage with Petronila Encarnacion, they having known him when he was a clerk and dry goods salesman for another Chinaman by the name of Jose Gloria Lecaros, a resident of Manila, the witness Revilla stating that he was gobernadorillo in 1852, when Sy Quia, after being converted to the Christian religion, was baptized in the church of San Vicente, the priest of which, who was his (Revilla's) uncle, being frequently visited by the said Sy Quia for the purpose of the latter's instruction in the new religion, and that Sy Quia upon being baptized was named Vicente Ruperto Romero, after his godfather Romero, who was at that time the clerk of the court; and Silveria Damian further testified that to the best of her recollection Sy Quia arrived in Vigan in the year 1848, stopping at her house, Sy Quia being a friend and countryman of her husband, who was also a Chinaman, and that she knew that Sy Quia was then a bachelor, having been baptized some years later, and that on the following year he was married to Petronila Encarnacion. The husband of the said Silveria Damian and other witnesses attended the wedding.

It will be seen therefore that the record contains strikingly conflicting evidence, that is to say, the evidence introduced by the plaintiffs is directly in conflict with that adduced by the defendants, for while the witnesses for the plaintiffs asserted that Sy Quia was at Am Thau, Amoy, in 1847, and contracted marriage in that year with Yap Puan Niu, with whom he continued to live for about three or four years thereafter, during which time the chil-



dren Sy By Bo and Sy By Guit were born; the witnesses for the defendants on the other hand affirmed that Sy Quia was at the time in Vigan, and that he did not leave that city during the six or seven years, according to most of the witnesses, and during the five years, according to the others, which immediately preceded his marriage with Petronila Encarnacion in 1853.

In order to determine whether the weight and preponderance of the evidence is with the plaintiffs or in favor of the defendants, in accordance with the provisions of section 273 of the Code of Civil Procedure, it becomes necessary to examine and analyze each of the testimonies of the respective witnesses presented at the trial, and ascertain the result of their various declarations taken as a whole, bearing in mind the circumstances of the case, the probability or improbability of their testimony, with due regard to the nature of the facts as to which they testified, their degree of intelligence, and the manner in which they testified.

The presence of Sy Quia in Vigan, and his presence at the same time at Am Thau, Province of Amoy, China, for a period of four years, to wit, from 1847 to 1850, two facts which are directly inconsistent with each other, might have been satisfactorily established by the testimony of witnesses, but the only proof of the fact of the marriage alleged to have been contracted by Sy Quia at the said Chinese town in 1847 could only have consisted of the matrimonial letters or cards which should have been exchanged between the families of the two contracting parties in the manner referred to by the witness Li Ung Bing, the interpreter of the American Consulate, who was called by the plaintiffs themselves, and whose testimony in this respect is uniformly corroborated by Nicolay in his book entitled "*Historia de las Creencias*," by Ratzel in his book entitled "*Las Razas Humanas*," by Cantú in his work entitled "*Historia Universal*," and by the authors of the "*Spanish American Encyclopedic Dictionary*," which matrimonial letters, once they have been mutually exchanged by the contracting parties, constitute the essential requisite required by the laws of that country in order that a Chinese marriage may be considered duly solemnized such letters being at the same time the best proof of its having actually taken place.

The party appointed to exhibit these letters can only be relieved from the necessity of so doing by proving that the same have been lost or disappeared, for in the absence of such proof, there being none of this character in the record, they must be produced at the trial in order to establish the fact of the marriage alleged to have taken place, and only in the case expressly excepted by law can any other proof such as the testimony of witnesses be allowed, but the letters themselves must be produced as evidence of the contracts to which they relate, in accordance with the provisions of section 285 of the Code of Civil Procedure.

The failure to produce the said matrimonial letters which, according to some of the witnesses for the plaintiffs, were exchanged between both families prior to the celebration of the marriage of Sy Quia with Yap Puan Niu, and the lack of proof that they had

been destroyed or lost, give rise to the legal presumption that the marriage was not performed; and such presumption can not be overcome by the testimony of witnesses, some of them incompetent, while the testimony of others is conflicting not to say contradictory, in itself, as well as highly improbable; for this is a most important contract, which, according to the ancient laws and customs of China, must be evidenced by such letters or cards and the fact that these letters have not been produced shows that the marriage never took place, and, if they actually existed, it is a well-known rule that where evidence is wilfully suppressed, it is presumed that it would be adverse to the party presenting the same, if produced. (Sec. 334, par. 5, Code of Civil Procedure.)

Entering upon an analysis of the testimony of the witnesses for the plaintiffs, it will be noticed that Sy Peng stated that upon the death of Sy Quia, the women of his house extended their sympathies, as customary, to his widow in China. This, however, is not true, because it appears in the record as a proved fact that Yap Puan Niu died in 1891, while Sy Quia died in this city in 1894. Lim Chio affirmed that Sy By Bo, the alleged son of Sy Quia, had two children by his wife, one of them being Sy Yoc Chay. This is not true, because Sy Yoc Chay was only an adopted son. The witness Yap Si Tan testified that Yap Puan Niu lost a natural child, whose name she did not remember, and in his place adopted Sy Yoc Chay as her son. This fact is not testified to by any of the other witnesses, who simply said that the adoption had been made by Sy By Bo. The witness Yap Chio, 72 years of age, who testified that he had been present at the wedding of Sy Quia with Yap Puan Niu, must have been 8 years old at the time. The other witness, Sy Kai Tit, who was 71 years of age, and who, according to himself, was about 12 years old at the time, stated that he had taken part in the investigation made as to the status and condition of the bride Yap Puan Niu, having assisted Sy Quia's parents and the mediator in the investigation. Another witness by the name of Sy Boan testified that Sy Quia when he died in this city left a surviving widow, Yap Puan Niu, who was still living in China, this being in direct contradiction with the established fact that Yap Puan Niu, died before Sy Quia. This witness further said that when Sy Quia returned for the second time to China, in order to attend his parents' funeral, his alleged wife, Yap Puan Niu, was still living, his testimony in this respect being in contradiction with that of the other witnesses, Lim Chio, Yap Si Tan, Yap Chio and Sy Kai Tit.

The testimony of these witnesses, most of whom have seriously contradicted themselves upon important points in the course of their examination, and some of them, considering the fact that they were very young in 1847, having told a very improbable story, claiming that they had assisted Sy Quia's parents in bringing about the latter's marriage, can be given no credence by the courts to sustain a finding that Sy Quia actually married Yap Puan Niu, much less so the marriage of Sy By Bo and Sy By Guit who are alleged to be the legitimate children of the said Sy Quia and Yap



Puan Niu, and the marriage of Sy Jui Niu, the mother of Sian Han, a grandson of Sy By Bo and a great-grandson of Sy Quia, for the reason that there were not introduced in evidence at the trial the matrimonial letters that must have been exchanged before the celebration of these marriages, all of these witnesses having simply said that they attended the wedding of Sy Quia and Yap Puan Niu, that their said sons were also subsequently married and each had two children, and that Sy By Bo adopted Sy Yoc Chay in place of one of his deceased children. From the testimony of these witnesses, taken as a whole, it is impossible to arrive at the truth and to lay the foundation of a just judgment in accordance with the law.

The witness Sy Hien, who claims to be a younger brother of Sy Quia, and was a witness for the plaintiffs, among the many conflicting statements made by him, as may be seen from his testimony, said that his certificates of marriage, which presumably consisted of similar matrimonial letters or cards, were kept in his own town, and that he was unable to state the difference in age between himself, who was 59 years old, and his brother Sy Quia, who had he lived, would to-day be about 80 years old, unless he was permitted to examine a certain book kept in his own home in China (p. 116 of the record.) His testimony clearly shows that these matrimonial letters are duly preserved and that the date of the birth of the members of the family is noted or entered in a book kept in the paternal residence, in like manner as the death of such members of the family is recorded by mortuary inscriptions on tablets, a practice which is very natural among people who lived in civilized communities and cities with a civilization of their own and who, like the Chinese, notwithstanding their remarkable backwardness with reference to more advanced and cultured races, generally speaking are not barbarians and do not live a nomad or savage life.

The mortuary inscriptions upon one of the tablets presented in evidence at the time some of the witnesses testified who were called by the plaintiffs for the purpose of establishing that the deceased, Sy Quia, had in his lifetime married Yap Puan Niu, an English translation of which appears in the records, are not conclusive or supplementary proof of the said marriage because they are absolutely false and contrary to the actual facts with reference to Sy Quia, for the latter was still alive in 1891, when he was presumed to be dead according to the said inscriptions, he having actually died in January, 1894; therefore the said mortuary tablet, and the inscriptions appearing thereon, can not serve to corroborate the testimony of the witnesses who testified to the celebration of the marriage, because such tablet and inscriptions are glaringly false, the fact that the witness Sy Peng said that this tablet, together with others, was taken by him from the temple or sanctuary of Sy Quia's family at Am Thau, to be introduced as evidence in this action, to the contrary notwithstanding. The falsity of the inscription of Sy Quia's death, when he was still alive, made upon a tablet which was evidently prepared with remarkable haste and temerity, is borne out by the witness Li Ung Bing, the interpreter of the American consulate, who claimed to be familiar with the laws and cus-

toms of his country, for, according to him, where Chinese die out of China no inscription is made at the place of their former residence in China, upon such tablets, of the fact of their death, and as it is a fact, admitted by the plaintiffs, that Sy Quia died in Manila and was buried in La Loma cemetery, there is no doubt that the tablet in question was fraudulently prepared and fabricated to supply the lack of documentary proof as to the so-much-talked-about marriage in China which is the fundamental basis of plaintiff's claim.

In the administrative proceedings that Sy Quia should have instituted for the purpose of securing the necessary permission to marry Petronila Encarnacion, and at the investigation which, after the obtaining of such permission, must have been conducted by the ecclesiastical court of the bishopric of Vigan, he, Sy Quia, must have necessarily declared that he was single, as evidently he did, according to the testimony of the witness Roman Gray, 72 years of age, then a clerk of that court, whose testimony under oath is supported by that of other witnesses, two of them being of the same race as Sy Quia, and in view of the result of the said proceedings and investigation, conducted as aforesaid, the parish priest of the said city of Vigan was authorized to marry Vicente Sy Quia to Petronila Encarnacion, the certificate of marriage reciting the fact that there was no impediment whatever to the performance of the marriage.

Without the aforesaid permission of the Governor-General, sought and obtained in accordance with sections 34 and 35 of the decree of the 20th of December, 1849, the provisor and vicar-general of the bishopric of Vigan would not have admitted the testimony given by the witnesses in the investigation for the purpose of proving that Vicente Sy Quia was single and could be allowed to marry, nor could the parish priest have performed the marriage ceremony without first securing the necessary authority from the provisor of the court in the name of the bishop.

Therefore the result of those proceedings and the canonical certificate, evidencing the marriage of Vicente Sy Quia and Petronila Encarnacion, corroborate the testimony of the witnesses for the defendants to the effect that Sy Quia was single and had resided for many years in that city before he married Petronila Encarnacion, and that he could not have spent four years at Am Thau, province of Amoy, China, during that period, as alleged.

With reference to the validity and efficacy of the canonical certificates and the certified copies thereof introduced here in evidence, we adhere to and follow the doctrine laid down by this court in the case of the United States vs. Nicolas Arceo (11 Phil. Rep., 530), No. 4539, wherein this court said:

The canonical entries in parochial books have not lost the character of public documents for the purpose of proving such acts as are therein related, inasmuch as, since the change of sovereignty in these Islands, no legal provision has been promulgated to destroy the official and public character that the said entries had under the former régime.

Parish priests continue in the legal custody of the parochial books

kept during the former sovereignty, and as such legal custodians they may issue literal copies in the form of certificates of the entries contained therein, in like manner as custodians of archives.

To strengthen the proof introduced by the plaintiffs as to Sy Quia's marriage to Yap Puan Niu, an attempt was made to establish that the said Yap Puan Niu had been twice in Manila, the last time in 1886; that on these two occasions she stopped for five or six months at the house of Sy Tay, Sy Quia's brother, and that Sy Quia frequently called on her at the said house; but, notwithstanding the testimony of some witnesses who testified to this

1100 effect, particularly Sy Hien, who claimed to be one of Sy Quia's brothers, and who testified long after Sy Quia's death, we have in the record the sworn statement to the contrary by the Chinese woman, Ana Quang Su, the wife of the said Sy Tay, who positively testified that upon the two occasions that the said Yap Puan Niu stopped as a guest at the house of her husband for a period of five or six months, she had never seen Sy Quia call on her, Yap Puan Niu, and that the said Yap Puan Niu never went out of the house, but remained at home as was customary with Chinese women, adding that she would have known if it had been otherwise, because said Yap Puan Niu occupied a room adjoining hers in the same house, the witness being always at home, further saying that her husband Sy Tay supported the said guest, Yap Puan Niu, and paid for her transportation both ways between Manila and China, and that Sy Joe Lien and Sy Yoc Chay, who on successive dates came to Manila from China, also stopped at her, the witness' house, where they lived at the expense and under the orders of her husband Sy Tay. The testimony of this witness is of the utmost importance, and has not been impugned or discredited in any way in this case.

The witness, Roman Gray, above referred to, affirmed that while he was clerk of the ecclesiastical court of Vigan, which position he had held since 1850, he met the Chinaman Sy Quia when the latter went to his court for the purpose of being baptized as a Christian, stating that the said Sy Quia several years thereafter, in 1853, presented a petition for permission to marry, whereupon the necessary proceedings were instituted, in which said proceedings two Chinese witnesses and Sy Quia himself stated under oath that Sy Quia was single and free to marry, and a decree was subsequently entered authorizing the performance of the marriage with Petronila Encarnacion, the witness further stating that he had read the proceedings but that in 1898 the papers were destroyed by the insurgents, who removed everything from the place where the archives were kept and occupied the premises for some length of time.

Aside from what has been said before, there is no other evidence in the record to show that the plaintiffs, particularly Sy Chua Niu, Sy Joe Lieng and Sy Yoc Chay, were ever recognized as legitimate grandchildren and adopted grandchild, respectively, and that Sian Han is the great-grandchild of the said Sy Quia, nor is there any proof to show that the plaintiffs Sy Joe Lieng and Sy Chua Niu have been continuously in possession of the legal status of children

of the said Sy By Guit, and the said Sy Yoc Chay as the adopted child of Sy By Bo, and Sian Han as the grandchild of the said Sy By Bo, who, as well as Sy By Guit, is said to be the legitimate son of Sy Quia by his wife, Yap Puan Niu.

Further there is no evidence to the effect that Sy Quia had ever provided for the support of Yap Puan Niu, nor that Petronila Encarnacion at any time delivered money, as alleged, to Sy Joc Lieng and Sy Yoc Chay by reason of their hereditary income, inasmuch as the delivery of the sum of four thousand pesos to the said Sy Joc Lieng entered in a book kept by Sy Tay, as per the copy of the entries appearing on page 300 of the book marked "A. S.," is no proof of the payment of a part of the inheritance, and without any express declaration on the part of Petronila Encarnacion, an entry in a book kept by the firm of Sy Tay could not be binding upon the said Encarnacion, this, aside from the fact that the entries do not show the reason why this sum of P4,000 was charged to the account of Petronila Encarnacion and credited to Sy Joc Lieng; and, even if we admit as true the statement of the witness Emilio Medina that in his presence, the said Sy Joc Lieng received an additional sum of P2,000 from Petronila Encarnacion there is no evidence why this sum was paid to and received by the said Sy Joc Lieng, the witness himself saying that the receipt made out at the time stated that the money was for commercial purposes.

It likewise appears from the record that the plaintiffs, who now seek to be recognized as the grandchildren, and Sian Han as the great-grandchild of the deceased Sy Quia, incidentally attempting to recover the property which the said Sy Quia left at the time of his death, have now shown by competent documentary proof that Sy By Bo and Sy By Guit were in fact the children of Sy Quia by his wife Yap Puan Niu; that Sy Yoc Lieng and Sy Chua Niu are the children of Sy By Guit; that Sy Yoc Chay is the adopted child of Sy By Bo, and Sian Han the son of Sy Jui Niu, who was the daughter of the said Sy By Bo, for the parentage and affiliation of the said parties, as well as the marriage of Sy By Bo and Sy By Guit, the adoption of Sy Yoc Chay, and the marriage of Sy Jui Niu, should have been established by means of the documents in which such facts are customarily recorded, as stated by Sy Hien, one of the witnesses of the plaintiffs and who also was alleged to be a brother of Sy Quia; the testimony of witnesses, the most dangerous and risky of evidence, not being sufficient to sustain a finding that the court erred in its estimation of the facts, since the preponderance of the evidence must be fixed precisely where the judge believes the truth lies, taking into consideration the facts which were sought to be established, together with the nature of the same and the circumstances of the case; and it should be noted that for the lack of documentary evidence it is impossible to determine on what date Sy Quia was actually married, if he was married at all, to Yap Puan Niu; and considering as a whole the evidence introduced by the plaintiffs as to the stay and residence of the said Sy Quia in the city of Vigan, Philippine Islands, during the three or four years

when it is alleged he was at Amoy and there married, it can not be said that the preponderance of the evidence lies with the plaintiffs.

It further appears from the record that while the body of the deceased Vicente Romero Sy Quia was lying in state at the house where he died, January, 1894, for the purpose of performing the ceremony of robing a descendant of the deceased with the nine silk suits which had been prepared for the corpse in accordance with the Chinese custom, and although Sy Hien, a brother of the deceased, was in charge of the ceremonies, it did not occur to him to dress Sy Yoc Chay in these garments, he, Sy Yoc Chay, being the son of Sy By Bo, and if the said Sy Hien thought that this would not be proper for the reason that Sy Yoc Chay was merely an adopted son, it is significant that Sy Joc Lieng, who was also present or at least in the house, was not dressed in the said nine suits, but the same were worn by Tomas Sy Quia, the eldest son of Gregorio, who for this purpose was expressly taken out of the college where he was at the time as testified to by several witnesses, among them Macario Pavila, a resident merchant of Pangasinan, who chanced to be at the house on that occasion; and the statement of Sy Hien to the effect that he did not remember the said ceremony, not being worthy of credit in view of the positive testimony of the defendants Pedro and Juan and of the witness Pavila who witnessed the same, together with several Chinese, among them Sy Yoc Chay and Sy Joc Lieng, the latter's statement that he was not present at the ceremony on account of his having temporarily left the house in order to carry out certain instructions received by him, can not be believed, for, it is a fact that he was the proper person to wear the said nine silk suits according to the customs of his country, the master of the ceremonies would have suspended the same until he, Sy Joc Lieng, would have returned to the house; but instead of this the eldest son of Gregorio Sy Quia was brought, it is alleged, from the college where he was, his father Gregorio being at the time in Vigan, for the purpose of performing the said ceremony of the nine robes before these were actually placed upon the corpse; from all of which it may be inferred that Sy Yoc Chay, who denied that the said ceremony took place, and Sy Joc Lieng, were not, as a matter of fact, the grandsons of Sy Quia, as Sy Hien, a brother of the deceased, who conducted the ceremony, well knew, and that the only descendant to be designated in accordance with traditional customs of the Chinese was Gregorio Sy Quia, the eldest son of the deceased, and, in his absence, the latter's eldest son, Tomas Sy Quia, which designation was accordingly made.

In addition to the foregoing considerations it should be stated that the sworn statement by Vicente Romero Sy Quia before the civil and ecclesiastical authorities of the city of Vigan in the proceedings which were instituted in 1853 in connection with his marriage in the parish church of that city, the continued possession for a period of many years of the status of a single man enjoyed by him and recognized and accepted by the whole community of the capital of the Province of Ilocos Sur, the belief on the part of his townsmen and neighbors that he was in fact a single man,

all these facts being corroborated, as they are, by the uniform testimony of the witnesses for the defendants, and the unexplained silence on the part of his alleged wife, Yap Puan Niu, who might have asserted whatever rights she may have had before the tribunals of this country, if she really had any rights, as the legitimate wife of Sy Quia, completely overcome and destroy the improvised parol evidence as to the pretended marriage of Sy Quia in China, the performance of which was for the first time alleged in December, 1905, after Sy Quia's death and the demise of the latter's brother, Joaquin Martinez Sy Tiong Tay, who, having sheltered in his house the woman Yap Puan Niu on the two occasions aforesaid, as well as the plaintiffs Sy Yoc Chay and Sy Joc Lieng since these latter landed in the Philippines, might have testified to the existence of the marriage, thus supporting the plaintiffs' claim to the Sy Quia estate.

It is admitted by the plaintiffs in this case that two of them, Sy Yoc Chay and Sy Joc Lieng, and the woman Yap Puan Niu, when they came to this country stopped at the house of the said Sy Tiong Tay, who provided for their support and maintenance, gave employment to the first two in his own business and paid for the transportation of the woman to Manila and back to China on the two occasions when she came to this country; and, notwithstanding the truth and certainty of these facts, the plaintiffs, nevertheless, did not even endeavor to show that the said Sy Tiong Tay had defrayed all these expenses by order and on account of his brother Sy Quia, a fact which would appear from the entries in the books kept by him as a merchant, if such payments were really made in behalf of the said Sy Quia. The plaintiffs introduced in evidence a certain book alleged to belong to the firm of Sy Tay for the purpose of establishing a certain payment made by Petronila Encarnacion to the said plaintiffs. They, however, were unable to produce any book to show that the expenses incurred by the said Sy Tay for the maintenance and support of the said plaintiffs and of the woman, Yap Puan Niu, as well as the latter's traveling expenses were paid by and on account of Sy Quia.

They were unable to explain the reason for these disbursements made by Sy Tay for the benefit of two of the plaintiffs and their alleged grandmother, notwithstanding the fact that the death had forever stilled the lips of the two brothers, Sy Tay and Sy Quia, plaintiffs having confined themselves to attributing to whom they believed to be the wealthier of the two brothers, who unfortunately can not now speak, their paternity and the parentage of a family which there is no proof was his.

This court, in the strictest administration of justice and in conformity with the law, can not admit that plaintiffs have proved four marriages and three generations, since the evidence introduced by them in support of these facts only consists of the testimony of witnesses, most of whom have made conflicting statements and some have contradicted themselves, as for instance the brother of Sy Quia, Sy Hien, whose testimony is absolutely unworthy of credence, and other witnesses have told improbable stories and testified



as to things which are not likely to occur in the natural and ordinary course of human events.

Even assuming that Sy Quia before he became a Christian actually married Yap Puan Niu in 1847, as alleged, and that his second marriage in 1853 with a Christian woman, by whom he had five children and with whom he lived continuously in these Islands since the marriage until he died, covering a period of forty-one years, while the first marriage was still in full force and effect, was null and void, he, Vicente Romero Sy Quia, having therefore married twice in violation of the law, the plaintiffs, nevertheless, would not be entitled to the relief sought by them in their complaint.

There is not the slightest evidence in the record which even tends to indicate that Sy Quia, at the time of his marriage at Vigan in 1853 with Petronila Encarnacion, brought any property or any sum of money into the conjugal partnership. The fact that he did not is not surprising, as he was then a mere clerk in the employment of another Chinaman by the name of Jose Gloria, who was a resident of this city, with a salary of P200 per annum, as per the testimony of Silveria Damian, an aged woman, whose husband was also a Chinaman and worked for the same man that Sy Quia did and for the same salary; while, on the other hand, there is evidence in the record to the effect that Petronila Encarnacion, who belonged to a wealthy family of Vigan, brought to the marriage, as a gift from her parents, the sum of P5,000, which, together with their common labor and industry, was the basis of the fortune accumulated by both husband and wife in the course of years.

Therefore, even assuming that the second marriage was void which was contracted by Sy Quia at Vigan while a former marriage alleged to have been performed at Amoy, China, was still full force and effect, and upon which the plaintiffs in this case base their contention, the second marriage, however, produced civil effects under the laws here in force in 1853, the time when it was performed. These laws are as follows:

Law 3, title 3, *partida* 4, provides in part as follows:

Further, if people marry advisably, knowing that such impediment existed, and that for this reason they should not have married, the children which may be born will not be legitimate; but if only one of the contracting parties, and not both, was cognizant of the existence of such impediment, the children will be legitimate, for the ignorance of one of the contracting parties excuses them, and no one can say that they are not legitimate children.

Law 1, title 13, *partida* 4, provides in part as follows:

And even if it should happen that between those who are married manifestly in *facie ecclesie* such impediment exists which would require that the marriage be set aside, the children which may be born to them before the contracting parties knew that the impediment existed, will be legitimate. And this would also be the case if neither of the contracting parties knew that the impediment existed, as well as if only one of them had knowledge thereof, for the ignorance on the part of one of them would make the children legitimate. But if after knowing with certainty that the impedi-



ment existed between them, they should have children, any that should be born subsequent thereto will not be legitimate. But, if while such impediment exists without the knowledge of both parties or of either of them, they should be accused before the judges of the Holy Church, and before the impediment is duly established and final judgment entered, children be born to them, such children as may be born while the doubt exists, will be legitimate.

The Civil Code has merely reproduced with certain modifications the provisions of the old legislation in force in 1853 as to the civil effects of a void marriage where both parties married in good faith, as well as where only one of them acted in good faith, for whether one or both married in good faith, the marriage will produce civil effects only in favor of the innocent spouse, and of the children born of this void marriage.

If in all the acts of life good faith is to be presumed unless the contrary is proven, it can not be denied that Petronila Encarnacion acted in good faith when she married Vicente Romero  
1101 Sy Quia in 1853, since there is no evidence in the record to the effect that she knew before or after her marriage that the said Vicente Romero Sy Quia was married in China to another woman.

The marriage contracted by a Christian Chinese at the time when Sy Quia was married in the Philippines, was preceded by such formalities, and so many requisites had first to be complied with, that it was difficult, not to say impossible, that in the natural and ordinary course of things the marriage could be performed if there was any impediment at all thereto; and in the case of Sy Quia, not only for many years was he considered in the city of Vigan by the community at large as a bachelor, his name appearing as such in the municipal census, but it must be fairly assumed that when he instituted the proceedings before the civil authorities, and ecclesiastical proceedings in the ecclesiastical court of Vigan, in order to secure permission and authority to marry in accordance with the various decrees then in force, among them the decree of the 20th of December, 1849, he must have positively said then that he was a bachelor, and this fact must have appeared from the summary investigation conducted by the ecclesiastical authorities of Vigan for the purpose of ascertaining whether or not he was a bachelor and free to marry, and when at last the parish priest of Vigan was authorized to proceed with the marriage ceremony, there is little room for doubt that Petronila Encarnacion, as well as her family, relying upon the result of both proceedings, and upon the license or authority granted by the government, and the authority given by the vicar-general in the name of the bishop, for the performance of the marriage, they consented thereto in the best of good faith, particularly Petronila Encarnacion, to the latter's union to Vicente Romero Sy Quia in lawful wedlock.

If, on the contrary, it were true that Sy Quia had married in China many years before, there is no doubt that he acted in bad faith by deceiving his wife Petronila Encarnacion, as well as the civil and ecclesiastical authorities of this country, perjuring himself. And

upon the assumption that the marriage with Petronila Encarnacion was void by reason of the existence of a prior undissolved marriage, the second marriage, nevertheless, produced its civil effects in favor of the deceived spouse, and of the children born to them, who, notwithstanding the nullity of the second marriage, are in the eyes of the law legitimate, as though they had been born of parents lawfully married.

Therefore, assuming that Vicente Romero Sy Quia acted in bad faith by concealing the fact of his first marriage at the investigation made by the authorities for the purpose of determining whether or not he was a bachelor and free to marry, one of the civil effects produced by the marriage thus rendered void was that Sy Quia thereby absolutely forfeited all his rights and interest to one-half of the conjugal property appearing in the instrument of partition, Exhibit A. F., and by operation of law all the property which would otherwise have belonged to him, became the property of his wife, Petronila Encarnacion, in accordance with the provisions of the Civil Code applicable to the case in conformity with rule 3 of the transitory provisions.

Law 16, title 17, partida 7, with reference to this subject, provides:

Notorious wickedness is committed by men who knowingly marry twice while their first wife is living, and the same may be said of women who marry twice knowing that their first husband is still alive. Because such marriages give offense to God, and bring about great damages and dishonor to those who are deceived, and they should be careful to marry well and properly, as directed by the holy Church, for they would otherwise be married to persons with whom they would later live in sin, and while they endeavor to be happy in their marriage, and have children, the first wife or first husband appears when least expected, and disrupts the marriage, and on account of this rupture many women are dishonored and ruined forever, and men are disgraced in many ways. We therefore command that everyone who should knowingly enter into such a marriage, in any of the manners specified in this law, be hence banished to some island for five years, and that he forfeit whatever he may own at the place where the marriage was performed, and that it be given to his children or his grandchildren, if he has any, and if he has no children or grandchildren, one-half of such property should go to the person deceived, and the other half to the king's chamber; and if both parties knew that one of them was married, and wilfully married him or her, then both shall be banished, each to a separate island, and the property of either of them who may have no children should go to the king's chamber.

Article 1417 of the Civil Code provides as follows:

The conjugal partnership expires on the dissolution of the marriage or when it is declared void.

The spouse who, by reason of his or her bad faith, caused the annulment, shall not receive any share of the property of the partnership.

This article embodies and reproduces under different aspects the provisions contained in articles 72, 1333, subsection 3, 1373, 1378,

and 1429 of the same code, and a mere reading of this article, together with the provisions of law 16 of the partidas above quoted, will show the difference between the two. It will be noticed that the code contains more favorable and less strict provisions on this subject than the law of the Partidas wherefore, in accordance with rule 3 of the transitory provisions of the said code, the intestate succession of the deceased Vicente Romero Sy Quia should be governed and regulated by the new code, which was in force on January 9, 1894, the date of Sy Quia's death.

True, that article 72 of the said code is included in title 4, the application and enforcement of which in these Islands was suspended under the former sovereignty; but there is no doubt that article 1417 and the other sections cited are now in force, said article 1417 providing that the spouse who by reason of his or her bad faith causes the annulment of the marriage, shall not receive any share of the property of the conjugal partnership.

It should be borne in mind that on account of the unexplained silence of Yap Puan Niu during her lifetime, and the silence of the plaintiffs during Sy Quia's lifetime, the conjugal partnership constituted in 1853 between Sy Quia and Petronila Encarnacion was dissolved in 1894 by the death of the husband, and only then, when the Civil Code was already in operation, would their presumptive heirs have acquired a right to claim the inheritance for the right to inherit while the deceased was still living is a mere right in expectancy, and not until after the decease of the person whose succession is in concern can such a right be said to exist or to be duly acquired. See the preamble to the Civil Code, and the doctrine laid down by the supreme court of Spain on the subject, in its judgment of the 24th of June, 1897, wherein the court said:

That upon the settlement and distribution of the estate of a person who dies subsequent to the promulgation of the Civil Code, any action for the recovery of the property of the estate should be governed by the provisions of the said code, in conformity with the first rule and the one preceding the last, of the transitory provisions, because the rule as to the nonretroactivity of the new law only applies to rights acquired under the former legislation; and it is a well-known fact that hereditary rights exist only after the demise of the decedent; and the trial court having so decided, it did not infringe the provisions of laws 11 and 12, title 13, partida 6, and the general provision of the transitory rules for the application of the Civil Code.

However, as a matter of fact the action instituted by plaintiffs in 1905, claiming the property left by Sy Quia at the time of his death, is based especially upon the alleged nullity of the second marriage on account of the existence of the former performed in China. Therefore, the rights claimed by the plaintiffs should be determined in accordance with the provisions of the Civil Code which has been in operation since 1889 and under which the rights now asserted by the plaintiffs might have sprung and been acquired by them, this assuming that the alleged first marriage was actually performed in

China and that the claimants were in fact the issue of the said pretended marriage of Sy Quia and Yap Puan Niu.

Since the 9th of June, 1853, when Vicente Romero Sy Quia married Petronila Encarnacion, the conjugal partnership commenced to exist between the two spouses. All the property acquired by them up to the time of the dissolution of the said partnership on account of the death of Sy Quia on January 9, 1894, belonged to this partnership. (Law 1, Title 3, of the Fuero Real; laws 1, 3 and 4, title 4, book 10, of the Novisima Recopilación; and arts. 1393, 1401, 1403-1407, Civil Code.)

During Sy Quia's lifetime the validity of his marriage with Petronila Encarnacion, as has been said before, was never questioned, no one having indicated any defect which rendered the same void. It was only after his death that the plaintiffs ventured to attack the validity of the same by claiming that they were his legitimate heirs and as such entitled to his estate.

The Laws of the Partidas above cited, as well as the Civil Code, both recognize as a fact that a marriage contracted in good faith, by one at least of the parties to the same, produces the same civil effects as a valid marriage with reference to the innocent spouse and the children born of such marriage, even though the same be subsequently declared null and void.

It can not be denied that Petronila Encarnacion married Sy Quia in the best of good faith, there being not the slightest proof to the contrary so far as the record shows. Therefore, she being innocent, she must be held to have acquired all the rights to which a wife is ordinarily entitled, and neither she nor her children can be made to suffer the consequences of the nullity of such marriage, this, assuming that the marriage was void; nor can they in any event be made to suffer the consequences of the bad faith of her husband Sy Quia.

The nullity of the marriage, once declared by the courts, may deprive the partnership created by the marriage of the alleged spouses of its otherwise legal character, but can not destroy the legal consequences of the marital union while it existed. Consequently the children are considered legitimate and the innocent spouse is unquestionably entitled to one-half of the conjugal property acquired during the marriage.

From the legal provisions above cited, especially the sections of the Civil Code referred to, it necessarily follows that the half of the conjugal property to which Vicente Romero Sy Quia would have been otherwise entitled, on account of the alleged nullity of his marriage with Petronila Encarnacion and of his bad faith in contracting the same, was forfeited by him and by operation of the law passed to the other spouse, Encarnacion; and the plaintiffs, in their alleged capacity as legitimate descendants of the said Sy Quia, deceased, can not now claim the said property, the decedent, by the express provisions of the law, having absolutely forfeited his right to the said half of the property acquired during the marriage. Such marriage must be considered null and void if it is true, as alleged

by the plaintiffs, that Sy Quia's marriage with Yap Puan Niu was still in full force and effect when he married Petronila Encarnacion.

Counsel for plaintiffs now ask this court to modify the judgment appealed from and to declare that the said plaintiffs are the only legitimate heirs of Sy Quia and consequently entitled to his entire estate, together with all rents and profits, for which judgment should be entered in their favor with costs. In support of their contention they have assigned various errors as committed by the trial court, among them that the court erred in finding as a conclusion of law that the said Sy Quia was a subject of the Chinese Empire and that his estate should be distributed in accordance with the laws of China.

It is an admitted fact that Sy Quia was a native Chinaman and therefore a foreigner; that he came to this country in 1839 or 1840, when he was 12 years of age. He having resided in these Islands since then and until January, 1894, when he died, that is to say, for a period of more than 53 years, having obtained for this purpose the necessary license or permission, and having been converted to the Catholic religion, marrying a native woman in the city of Vigan and establishing his domicile first in the Province of Ilocos and later in this city of Manila, with the intention of residing here permanently, engaging in business generally and acquiring real estate, it is unquestionable that by virtue of all these acts he acquired a residence and became definitely domiciled in these Islands with the same rights as any nationalized citizen in accordance with the laws in force in these Islands while he lived here and until his death.

It should be noticed that the laws having no retroactive effect, in order to determine what rights Sy Quia had actually acquired since he removed to the Philippines in 1839 or 1840, it will be necessary to resort to the laws in force at that time; and the provisions of the Civil Code promulgated in November, 1889, could not affect in the least rights thus acquired by virtue of his long residence in these Islands. Article 3 of the Civil Code is as follows: "Laws shall not have retroactive effect unless otherwise prescribed therein." This provision is in accordance with the provisions of law 15, title 14, partida 3.

The legislation then in force on the subject of naturalization and residence of foreigners in the Philippine Islands will be found in the following laws. Law 1, title 11, book 6 of the *Novisima Recopilación*, is as follows:

We permit that the subjects of other kingdoms (provided they are Catholics and friendly to our Crown) who may desire to come here to practice their trade or profession may do so, and we command that if they do now practice some trade or profession and live twenty leagues inland from any port, they shall be forever exempt from the payment of taxes, and shall be likewise exempt, for a period of six years, from the payment of municipal taxes and from the performance of any ordinary or extraordinary services, as well as from holding office as members of municipal councils at the place where they may reside; and they, like other residents, shall be permitted to use the common pastures and enjoy all the privileges accorded to the latter; and we hereby command the authorities to provide them with

house and lands, if necessary. And other foreigners, whether they have any trade or profession, provided they have lived in this kingdom for a period of ten years in a home of their own, and have been married to native women for a period of six years, shall be admitted to all the offices of the republic except to those of magistrate, governor, mayor, alderman, warden, treasurer, revenue collector, secretary of city council, or any other government position of trust. As to these latter offices, as well as to all ecclesiastical offices, all existing laws shall continue in full force and effect, etc.

And law 3 of the same title and book of the Novisima Recopilación provides:

There shall be considered as denizens, in the first place, all foreigners who obtain the privilege of naturalization and those who are born in these kingdoms; those who residing therein may be converted to our Holy Catholic Faith; those who, being self-supporting, establish their domicile therein; those who ask for and obtain residence in any town thereof; those who marry a native woman of the said kingdoms and are domiciled therein; and in the case of a foreign woman who marries a native man, she thereby becomes subject to the same laws and acquires the same domicile as her husband; those who establish themselves in the country by acquiring real property; those who have a trade or profession and go there to practice the same; also those who practice some mechanical trade therein or keep a retail store; those who hold public or honorary offices or any such position whatsoever which can only be held by natives; those who enjoy the privilege of the common pastures and other privileges usually accorded to other residents; those who shall reside in the said kingdoms for a period of ten years in a home of their own; and also those foreigners who, in accordance with the common law, royal orders and other laws of the kingdoms, may have become naturalized or acquired residence therein, they being obliged to pay the same taxes as the natives for the legal and fundamental reason that they also participate in their privileges, etc.

Article 18 of the Code of Commerce of May 30, 1829, which was in operation until 1888, is as follows:

Foreigners who have become naturalized or have acquired residence in Spain in the manner provided by law may freely engage in commerce with the same rights and under the same conditions as natives of the kingdom.

1102 Although the Royal Decree of the 17th of November, 1852, was not extended to the colonies, with the exception of section 28 thereof, nevertheless, it would be proper to call attention to the provisions of the said decree in so far as they have any bearing upon the case at bar, in view of the provisions of laws 1 and 2, title 1, book 2, of the Compilation of the Laws of the Indies, which direct that the Laws of Castile shall be observed in all cases not otherwise covered by said laws. Section 2 of the said Royal Decree of 1852 is as follows:

Foreigners who have gained or obtained a residence, in accordance with the laws, shall be considered Spanish subjects.

Section 3 provides that all other foreigners who reside in Spain



without having taken out naturalization papers, or otherwise gained a residence therein, shall continue to be foreigners. And section 12 provides:

There shall not be legally considered as foreigners, under any circumstances, those who have failed to register as such in the registry of transients or domiciled persons kept by the civil authorities of the provinces or with the consuls of the respective nations.

It is a proven and undeniable fact that Sy Quia resided in the Philippines for more than fifty years, he having only absented himself occasionally for a short time with the intention of immediately returning to the Islands; and it is also a fact that in various documents and public instruments executed before notaries public, which have been introduced in evidence marked as "Exhibits 1, 2, and 3," said Vicente Romero Sy Quia has uniformly stated that he was a resident of the district of Binondo, having declared in one of the said documents that he was a freeholder. If the Chinaman Vicente Romero Sy Quia on account of his continuous residence in these Islands for a period of more than fifty years, and by virtue of the fact that he had permanently established himself in this country, living in a house of his own, with his wife and children, and having acquired real estate therein, did become a domiciled denizen under the laws then in force, even if it be held that the Royal Decree of the 17th of November, 1852, was applicable to these Islands by virtue of the provision contained in the Laws of the Indies, the legal status of Vicente Romero Sy Quia has not changed, because the provisions of the said decree do not in any way affect the rights acquired by him; and the supreme court of Spain in a judgment of the 30th of April, 1861, in construing this provision of the law, declared and held that the purpose of the Royal Decree of the 17th of November, 1852, was not that of promulgating a new law, but merely to condense and embody in one single act the various provisions then in force with reference to foreigners, and to preserve the *fuero de extranjeria* (the rights which foreigners had in certain cases to invoke their own laws) in the same manner as it existed before. In another judgment of the 29th of August of the same year the said supreme court of Spain held that under the provisions of law 3, title 11, book 6, of the *Novisima Recopilacion*, there should be considered as domiciled denizens of Spain all foreigners who, being self-supporting, established their domicile in the country; the double inscription in the registry, as required by the Royal Decree of the 17th of November, 1852, being no obstacle thereto.

Many years prior to the promulgation of the Civil Code in these Islands, there was published in the Official Gazette of this city on September 18, 1870, the decree of the 4th of July of the said year relating to foreigners, section 2 of which provides:

Foreigners who, in accordance with the laws, shall become naturalized or gain residence in any town of the Spanish provinces beyond the seas, shall be considered as Spanish subjects.

After dividing into three different classes the foreigners who should come into and establish themselves in the provinces beyond the seas,



classifying them respectively as domiciled, transient, and immigrant foreigners, the said section provided that—

Domiciled foreigners are those who have a regular residence and have lived for three years in any province or who may have registered as such residents in the registry of domiciled persons kept for this purpose, etc.

Section 7 of the said decree provides as follows:

Any foreigner residing in the provinces beyond the seas, in order to be considered as such foreigner under the laws of the country, shall register in the registry of foreigners to be kept for this purpose by the civil supreme authorities and by the consuls of their respective nations.

The above-quoted sections of the said decree are in harmony with similar sections contained in the decree of the 17th of November, 1852, which, as has been said, was never extended to these Islands—with the exception of section 28 thereof relating to the settlement of the estates of deceased foreigners. The doctrine laid down by the supreme court of Spain with reference to the interpretation and proper construction of the said decree is not, therefore, inconsistent with the provisions of the decree of 1870, also relating to foreigners.

True that prior to 1870 there existed in these Islands no registry of foreigners and that even the civil registry was not then in operation, the provisions of titles 4 and 12 of the Civil Code relating thereto having been suspended by telegraphic order of the 29th of December, 1889. It is also true that no registry was kept by the foreign consulates and that there was no Chinese consul here at that time. However, if the Chinaman Sy Quia had really intended to preserve his nationality and the protection of the laws of this country, he would have registered in the registry which was kept by the Government here after the publication in these Islands of the said decree of 1870; and under the theory of the law a foreigner, in order to have the right to invoke the laws of his own country, must register in the proper registries as such foreigner; if Sy Quia did not see fit to so register at any time prior to his death in 1894, we must presume that he did not do so because he desired to preserve the rights which he had acquired as a resident of Manila.

Residence and continuous permanence in the country for a period of years, and the rights thereby acquired as a denizen of any town, were always taken into consideration by the Spanish legislators in determining the rights of a foreigner residing in Spanish territory. The constitution of 1812 provides in section 5 that there shall be considered as Spanish subjects:

2. Foreigners who have obtained from the *Cortes* a certificate of naturalization; and, 3. Those who have otherwise gained residence in accordance with the laws of the country and lived as such residents for a period of ten years in any town of the kingdom.

A similar provision is contained in section 1 of the constitution of 1845, paragraph 4 of which is as follows:

Spanish subjects are those who, not having otherwise obtained a certificate of naturalization, have, nevertheless, gained residence in any town of the kingdom.

It becomes necessary to refer to the Spanish laws which were applicable or in operation in these Islands at the time that Vicente Romero Sy Quia gained residence and acquired the status of a domiciled denizen of the municipality of Vigan and subsequently of this city of Manila, for the reason that they were the only laws regulating his personal rights.

In addition to what has been said for the purpose of demonstrating that Vicente Romero Sy Quia acquired the legal status of a domiciled resident of these Islands, we should not forget to say that the Chinese residents of these Islands under the former sovereignty, and particularly at the time that Sy Quia gained a residence in this Archipelago, were governed by the Laws of the Indies and other special laws, some of them quite ancient; although they had no consul or any other representative of the Chinese Government, they, nevertheless, had a *gobernadorcillo* who was elected by their most prominent citizens, subject to the approval of the Governor-General. They were governed by laws different from the general laws of the country and paid a tax different from that which was paid by the natives and foreigners, and, upon their landing for the purpose of establishing themselves in the Islands, they had to obtain what was known as a resident's license and secure passports and permits whenever they desired to leave the Islands, and not only had they to obtain such permission from the Government, but also from their native wife, if they were married. It should be noticed also that they were not permitted to land in Manila without first obtaining a permit from the Government and that they had to state before the Chinese immigration authorities whether they were to land here as mere transients or visitors for a period of three months, which could be extended if they really intended to establish themselves in the country. For this purpose certain proceedings were instituted before the immigrant was given the said residence license. This license entitled them to more liberty and privileges in their business journeys and excursions through the provinces than the other transients who merely had permission to stay here three months. All this may be verified by reference to the decrees of the 31st of August, 1839; 16th of September, 1840; 14th of December, 1843; and 20th of December, 1849.

It should be noticed further that section 19 of the said decree of the 16th of September, 1840, provided that the children always follow the status of their father and pay the same taxes, except the children of Chinese who, according to the decree of the 2d of May, 1786, were considered as Chinese *mestizos*. These decrees may be found in the work entitled "*Legislación Ultra Marina*," by Rodriguez San Pedro, vol. 2, pp. 471-483, and vol. 8, p. 401.

The foregoing will clearly show that Vicente Romero Sy Quia gained residence in these Islands under the laws of the *Novísima Recopilación*. Therefore the questions raised by those who now claim to be his descendants should be decided in accordance with the laws in force in the Philippines to which Sy Quia submitted himself from the time he applied for a resident's license and abstained from registering in 1870 as a foreigner. Most of the property

left by him being real, the same is subject to the laws of the country in which it is located.

As an affirmation of what has been said with reference to the special laws governing in the Philippines concerning Chinese, we will cite the decision in a case where a Chinese Christian by the name of Bonifacio Lim Tuaco requested that the children of Chinese married to native women, whether pure natives or half-castes, pay the same taxes as their father and be permitted to wear the same costume as the latter up to the age of 25. The Spanish Government, inspired by the traditional spirit of the ancient special laws relating to Chinese residents in these Islands, after consulting various heads of departments and obtaining the opinion of the Philippine council, denied the said petition in a royal order of the 24th of February, 1880, which was communicated to the Governor-General of these Islands and published in the Official Gazette April 17, 1880.

The plaintiffs in this case have invoked certain provisions of the Chinese laws as one of the grounds of the action by them instituted and now contend that the estate of Vicente Romero Sy Quia, deceased, should be distributed in accordance with the laws of that country. Even disregarding the fact that the plaintiffs should have, but have not, alleged in their complaint, as one of the facts constituting their cause of action, the existence of a law passed and promulgated in China, the existence of which law, being foreign, should have been alleged in the complaint, the fact remains that there is absolutely no evidence in the record as to the existence of the Chinese Laws referred to by plaintiffs in their subsequent pleadings, the evidence of this character introduced by them consisting of books or pamphlets written in Chinese characters and marked "Exhibits AH, AI, AJ, and AK," which they claim contain a compilation of the laws of China, being useless and of no value.

It may be that they contain, as plaintiffs claim, the laws of China, but we have no Spanish translation of them, they being in the Chinese language, and written with characters which are absolutely unknown to this court and to the defendants. Further, the plaintiffs have not introduced expert testimony in the manner and form prescribed by section 292 of the Code of Civil Procedure, and, finally, there is no evidence that these four books or pamphlets were printed by authority of the Chinese Government or that they have been duly authenticated by the certificate of competent authorities or that they are properly sealed with the seal of the nation to which they belong. For this reason the said books or pamphlets can not, under any circumstances, be considered as documentary proof of the laws of China.

Section 300 of the Code of Civil Procedure reads as follows:

Books printed or published under the authority of the United States, or of one of the States of the United States, or a foreign country, and purporting to contain statutes, codes, or other written law of such State or country, or proved to be commonly admitted in the tribunals of such State or country as evidence of the written law thereof, are admissible in the Philippine Islands as evidence of such law.

Section 301 of the same code provides:

A copy of the written law, or other public writing of any State or country, attested by the certificate of the officer having charge of the original, under the seal of the State or country, is admissible as evidence of such law or writing.

Section 302 provides as follows:

The oral testimony of witnesses, skilled therein, is admissible as evidence of the unwritten law of the United States or of any State of the United States, or foreign country, as are also printed and published books of reports of decisions of the courts of the United States or of such State or country, or proved to be commonly admitted in such courts.

The jurisprudence of American and Spanish tribunals is uniform on this subject. For the purposes of this decision however it will be sufficient to refer to the judgment of the supreme court of Spain of the 26th of May, 1887, wherein it is said:

Whenever a foreign law is invoked in our tribunals, its existence must be satisfactorily established as any other fact.

If the pamphlets or books, written in Chinese characters, do not satisfactorily establish the existence of certain Chinese laws invoked by the plaintiffs, not only because such pamphlets or books lack the aforesaid formalities and requisites, but further because there is no evidence as to the nature of the laws contained in those books or pamphlets and the subjects with which they deal; on the other hand, the two witnesses whose testimony was introduced for the purpose of establishing the authenticity of the laws which, according to the plaintiffs, are contained in the said books, were unable to say positively at least that the book marked Exhibit AH contains an exact copy of the original. And the Chinese consul of this city, Sy-Int-Chu, after stating that he had never made a regular study of the laws of his country, simply consulting the same in connection with his official reports, admitted that he had never read or seen the original copy of this alleged compilation, the books not being duly certified, adding that he could not say whether book marked "Exhibit AH" was an exact copy of the original.

The testimony of the witness Ly Ung Bing, the interpreter, as to the written and unwritten laws of China, does not show, as required by the Code of Civil Procedure, that he knew such laws or that he was acquainted with the nature of the laws alleged to be contained in the said books. He merely confined himself to expressing his own opinion with reference to the two classes of laws. He, not being an expert on the subject thoroughly conversant with the laws of China, his testimony, considering the manner in which he testified, can not even be accepted as partial evidence that the said four books really contain the written and unwritten laws of China.

From the foregoing facts and provisions of law referred to we conclude:

1103 First. That it has not been duly established in this case that the chinaman Sy Quia, married in 1874 at Am Than, Amoy, China, the woman Yap Puan Niu, or that the plaintiffs are the descendants of the said Sy Quia, for the reason that the mar-

riage of Sy By Bo, Sy By Guit and Sy Jui Niu, respectively, the affiliation and parentage of the latter and of Sy Chua Niu and Sian Han, and the adoption of Sy Yoc Chay have not been proven.

Second. That, even assuming that Sy Quia actually married Yap Puan Niu in 1847, and that the second marriage with Petronila Encarnacion in 1853 is, therefore, void, Sy Quia having contracted this second marriage in bad faith by concealing the fact that his former wife was still living, his half of the property of the conjugal partnership between him and his second wife, who married him in good faith, was forfeited by operation of law in favor of his said second wife, for although the law recognizes civil effects to a void marriage, it, nevertheless, deprives the party who married in bad faith of his share in the community property acquired during the existence of the marriage up to the time of its annulment.

Third. That, as a consequence of the foregoing conclusion and under the same hypothesis, the plaintiffs, as the descendants of Sy Quia by his first marriage, have no right to claim Sy Quia's share in the conjugal property acquired during his second marriage with Petronila Encarnacion for the reason that by the express provision of the law the half of the said conjugal property which would have otherwise belonged to the husband was transmitted to Petronila Encarnacion, together with the other half of the said property to which she was rightfully entitled under the law as the deceived wife.

Fourth. That, under the same hypothesis that the marriage of Sy Quia with Petronila Encarnacion is void, his former marriage not having been dissolved when he married the said Petronila Encarnacion, the children by the second marriage are, nevertheless, legitimate, this being one of the civil effects of a marriage contracted in good faith, as in this case, at least on the part of one of the contracting parties, Petronila Encarnacion.

Fifth. That Vicente Romero Sy Quia, having become a regular domiciled denizen under the laws above cited by reason of his long residence in this country for more than fifty years and by reason of the further fact that he married a native woman, established himself in this city with a home of his own, acquired real property and engaged in business generally, most of the property left by him at the time of his death being real property, the questions raised by plaintiffs' petition must be determined in accordance with the laws of the Philippines to which Sy Quia submitted himself when he came to the Islands and secured a residence therein, and not in accordance with any other foreign or unknown law.

Sixth. That, aside from the fact that it does not specifically appear from the record what are the Chinese laws applicable to the issues of this case, there is no proof of the existence of the Chinese laws referred to by the plaintiffs, nor is there anything to show that the books or pamphlets introduced by them in evidence contain any specific laws of the Celestial Empire.

The foregoing disposes explicitly or implicitly; affirmatively or otherwise, of all the questions raised by the various assignments of error submitted by both parties; and in our opinion it is not neces-



sary to dispose of each of them in detail in view of the conclusion at which the court has arrived in this most important litigation.

For the reasons hereinbefore stated, we are of the opinion, and so hold, that the judgment of the trial court, appealed from by both parties, should be reversed and that we should, and do hereby, absolve the defendants of the complaint upon which this action was instituted, without any special order as to the costs of both instances. The bond given by the receiver, Gregorio Sy Quia, is hereby discharged and the petition heretofore made for the appointment of a new receiver is hereby denied. It is so ordered.

Carson and Elliott, JJ., concur.

ARELLANO, C. J., concurring:

I concur, reserving my additional opinion.  
Mapa, J., concurs in the result.

MORELAND, J., concurring in the result:

I concur in the result. I base my conclusion solely upon the ground that the evidence fails to establish in a satisfactory manner the alleged marriage in China. I shall later file a concurring opinion dealing with the character, quality, and weight of the evidence relating to that subject.

JOHNSON, J., dissenting:

An appeal from a judgment of the Hon. A. S. Crossfield, one of the judges of the Court of First Instance of the city of Manila. Judgment should be affirmed.

The Hon. A. S. Crossfield, who tried the case and saw and heard the witnesses, in his very carefully prepared opinion, found the following facts to be fully proved:

First. That one Sy Quia, a Chinaman, was born in the Empire of China, in or near the city of Amoy, in 1822 or 1823.

Second. That when the said Sy Quia was about 12 years of age he came to the Philippine Islands and remained here until he was about 25 years of age.

Third. That in the year 1847 he returned to China where he was married to one Yap Buanju (Yap Pua Niu), a Chinese woman, in accordance with the laws and customs of the Chinese Empire.

Fourth. That Sy Quia and Yap Buanju lived together from 1847 to 1851 or 1852; that during this period two children were born of that marriage and were called, respectively, Sy Bibo and Sy Biguel.

Fifth. That about 1870 the said Sy Bibo was lawfully married to Ho Gim Niu, a Chinese woman, and there were born to them two children, one of which died in infancy, and the other, named Sy Jui Niu, one of the plaintiffs in the present case, died after the commencement of the present action, leaving an only child named Sian Han, a minor, now represented in the present case by his guardian, C. W. O'Brien; that when the first child of the said Sy Bibo died in infancy he adopted in accordance with the laws and

customs of China, a Chinese child named Sy Joe Chay, one of the plaintiffs in the present case. Sy Bibo died in China in 1882.

Sixth. That said Sy Biguel, on or about the year 1871, was lawfully married in China to a Chinese woman named Yap Su Niu, from which marriage there were born two children, named, respectively, Sy Joe Lieng and Sy Chuaniu, who are each plaintiffs in the present action. Sy Biguel died in China in or about the year 1880, leaving his two above-named children as his only heirs.

It will be seen, therefore, that each of the plaintiffs included in the title of this cause is a direct descendant of the said Sy Quia and his Chinese wife, Yap Buanju.

Seventh. Yap Buanju, the Chinese wife of the said Sy Quia, died in China, intestate, in the year 1891.

Eighth. In the Year 1851 or 1852 Sy Quia returned to the Philippine Islands where he became a member of the Catholic Church and adopted the name of Vicente Romero Sy Quia.

Ninth. In 1853 the said Sy Quia (Vicente Romero Sy Quia) was married, in accordance with the forms prescribed by the Roman Catholic Church, to the defendant, Petronila Encarnacion, who died in the year 1906, after the commencement of the present action, and her estate is now represented by Pedro Sy Quia, her son, as administrator.

Tenth. The said Sy Quia (Vicente Romero Sy Quia) died intestate in the city of Manila, in the year 1894.

Eleventh. After the marriage of the said Sy Quia (Vicente Romero Sy Quia) and Petronila Encarnacion, there were born to them five children, whose names with the years of their birth, are as follows:

Apolinaria Sy Quia, 1853 (who died without being married, intestate, in May 1900, leaving her mother as her only heir).

Maria Sy Quia, who died before the commencement of the present suit, leaving as her only heir surviving Generoso Mendoza Sy Quia, one of the defendants in the present action.

Gregorio Sy Quia, 1856, Pedro Sy Quia, 1858; and Juan Sy Quia, 1860.

It will be seen that the present defendants, Petronila Encarnacion (Pedro Sy Quia now being the administrator of her estate), Generoso Mendoza Sy Quia, Gregorio Sy Quia, and Pedro Sy Quia, on his own behalf and as administrator of the estate of Petronila Encarnacion, and Juan Sy Quia, are the direct descendants of the said Sy Quia (Vicente Romero Sy Quia) and Petronila Encarnacion.

Twelfth. After the death of Sy Quia (Vicente Romero Sy Quia) on the 9th day of January, 1894, his estate was duly administered by his Filipino wife, Petronila Encarnacion, and a final distribution of his estate was made by order of the court of First Instance of Manila, on the 3d day of August, 1900, among the defendants herein.

Thirteenth. That the said Sy Quia (Vicente Romero Sy Quia) during his married life had accumulated a large fortune, consisting of real and personal property, all of which was located in the Philippine Islands.



Fourteenth. That while there is some dispute upon the question as to the amount of property which the said Petronila Encarnacion brought to the marriage, we are of the opinion that the proof justifies the conclusion that at the time of the marriage of the said Sy Quia and Petronila Encarnacion, they each brought to the marriage relation property of about the same value.

Fifteenth. That each of the marriages of the said Sy Quia, the first in China in 1847 to the said Yap Buanju, and the second in the Philippine Islands in 1853 to the said Petronila Encarnacion, was made in accordance with the laws and customs of the respective countries in which the marriage ceremonies were performed.

Sixteenth. There is nothing in the record which shows or tends to show that each of said marriages, so far as the two women were concerned, was not made in absolute good faith, believing that they had a right to enter into the said marriage relation, and that there was no impediment in law against it. There is nothing in the record which shows or tends to show that Petronila Encarnacion did not enter into the marriage relation in good faith believing that there was nothing in law, at least, which forbade it.

Seventeenth. We have, therefore, in brief, the following facts:

(a) That Sy Quia (Vicente Romero Sy Quia) and his Chinese wife, Yap Buanju, were married according to the laws and customs of China in 1847, and that the present plaintiffs are the direct descendants of that marriage.

(b) That Sy Quia (Vicente Romero Sy Quia) and Petronila Encarnacion were married in 1853, in accordance with the laws and customs of the Philippine Islands, and that the defendants in the present case are the direct descendants of that marriage.

(c) That the marriage of the said Sy Quia with Yap Buanju had not been dissolved or annulled at the time of the marriage of Sy Quia with Petronila Encarnacion.

(d) That so far as Petronila Encarnacion was concerned her marriage was entered into, in absolute good faith.

Basing his conclusions upon the foregoing facts, the Hon. A. S. Crossfield rendered a decision as follows:

(a) Giving to the children of Vicente Romero Sy Quia by his first wife, Yap Pua Niu, one-half of the said estate; and

(b) Giving to the children of his second wife, Petronila Encarnacion, the other half of the said estate.

From this decision the plaintiffs and defendants each appealed and each presented a bill of exceptions.

The plaintiffs and appellants agree to the findings of fact made by the lower court and present only a question of law in their appeal. The contention of the plaintiffs is that they are entitled to all of the estate of Vicente Romero Sy Quia, under the law.

The defendants and appellants each excepted to the judgment of the lower court and each presented a motion for a new trial, based upon the ground that the evidence adduced during the trial of the cause did not justify the findings of fact made by the lower court, which motion the court denied; to which order of the lower court the defendants duly excepted.

The contention of the defendants and appellants is:

First. That the findings of fact made by the lower court are not supported by the evidence; and

Second. That under the evidence they are entitled to all of the estate of Vicente Romero Sy Quia.

The lower court, in speaking of the evidence adduced during the trial of the cause, said:

There is practically no conflict in the evidence received, except such as possibly may be drawn from inference, and I find the following facts undoubtedly established: [The findings are set out above.]

The appeals brought to this court present both a question of fact and of law.

The plaintiffs and appellants, under their appeal, are not entitled to have the evidence examined. (See par. 2, sec. 1, Act No. 1596, Philippine Commission.) They made no motion for a new trial in the court below.

The defendants, by virtue of their having made a motion for a new trial based upon the ground that the evidence was insufficient to justify the decision, and having excepted to the order of the court thereon, are entitled to have the evidence examined in this court. This court, however, while it may review the evidence taken in the court below, can not affirm or reverse except:

(a) By giving due weight to the fact that the Judge who tried the case saw the witnesses when they testified; and

(b) When there is a preponderance of evidence against the findings of the lower court. (See sec. 1, Act No. 1596, Philippine Commission.)

Our contention, taking into consideration the fact that the lower court saw and heard the witnesses, is that his findings of fact are supported by a clear preponderance of the evidence and that his judgment, based upon such facts, is clearly supported by the law as well as by sound reason and justice.

The majority opinion finds that Sy Quia and Yap Pua Niu were not married in China, as is alleged by the plaintiffs for the reasons:

First. That his children and grandchildren after the lapse of about fifty-eight years, could not present the letters which passed between the father of Sy Quia and the father of his wife Yap Pua Niu, before the marriage, by which these parents arranged for the said marriage, without the consent of the contracting parties, which letters they (the contracting parties) never had in their possession and never saw; and

Second. Because when Sy Quia in the Philippine Islands was trying to practice a fraud upon his Chinese wife and his to be second Filipino wife, he then said that he was not married.

All of the Chinese children of Sy Quia, born of his Chinese wife, were born in China between the years of 1847 and 1852, 1104 and those who were living at the time of the trial were between fifty-three and fifty-eight years of age. As a practical question, how many men of the most civilized nations, who have reached the age of fifty years, could then prove by docu-

mentary evidence, in the absence of public record, the marriage of their parents? I doubt whether there is a single member of this present court who would be able to prove by documentary evidence the marriage of his parents. The assertion is ventured that not a single member of the Supreme Court of the United States, the recognized greatest judicial body, would be able to prove by documentary proof, outside of public records that his parents were legally married.

There is no proof in the record that the Chinese Government had a system of public records of marriage at the time of the marriage of Sy Quia with his first wife Yap Pua Niu, or that they have any such system now.

Sy Quia could not, by any representation of his made at the time or before his second marriage in the Philippine Islands, change the fact of his first marriage in China for the purpose of defeating the legitimacy of his children born of his Chinese wife.

The evidence adduced by the plaintiffs relating to the marriage of Sy Quia in China is literally as follows:

Sy Peng testified as follows:

Q. What is your name?

A. Surname, Sy; name, Peng.

Q. Where do you live?

A. I live at Am Thau.

Q. What is your occupation?

A. I have been heretofore going abroad, and now I stay at home.

Q. How old are you?

A. Eighty.

Q. What position, if any, do you hold in the village of Am Thau?

A. I have been elected by the people of this village as headman.

Q. How many headmen are there in your village?

A. Seven or eight.

Q. Who is the chief of the headmen of your village?

A. I have been elected by all the people of the village to be head.

Q. Where were you born?

A. I was born in Am Thau.

Q. Do you know Sy Quia?

A. Yes; I know Sy Quian.

Q. When did you first know him?

A. Ever since we were boys, we were traveling together and he is my clansman.

Q. In what village did you first know Sy Quian?

A. In the Am Thau village, he lived quite close to my house, I saw him coming in and going out.

Q. How well did you know him as a boy?

A. Very well, he was only four years older than myself and we have been playing together as boys.

Q. Did you know his father and mother?

A. I did.

Q. Where did they live?

A. They lived in the same house as Sy Quian.

- Q. How far was the house from the house where you lived?
- A. Three houses away, about 50 or 60 steps.
- Q. When did Sy Quia first go abroad?
- A. When he was twelve years old.
- Q. Where did he go?
- A. Philippine Islands.
- Q. Where did you next meet him?
- A. When he came home from abroad.
- Q. When he came home, to what village did he return?
- A. The same village, to his house.
- Q. How old was he when he came back?
- A. About 25 years old.
- Q. Do you know why he came back?
- A. He came home to marry a wife.
- Q. How long did he stay at the village at that time?
- A. About three or four years and then he went out abroad again.
- Q. When did you next see him?
- A. Do you mean the third time?
- Q. Yes.
- A. The third time his uncle had a boat which was sent here to Amoy with Sy Quian as supercargo.
- Q. How long did Sy Quia stay that time?
- A. Not very long; he went away with that ship.
- Q. When did you next see Sy Quia?
- A. This is the fourth time I saw him, in Manila; I went there myself.
- Q. About when was that?
- A. Upwards of ten years after he came home with that ship as supercargo.
- Q. How often did you go to Manila?
- A. I was a broker. I went back and forth twice a year sometimes three times. This is seldom though.
- Q. When in Manila would you meet Sy Quia. I mean the man you have testified about, who first left your village when about twelve years old and later came back to get married?
- A. About upwards of ten years after the time he came back to be married.
- Q. How many times did you meet him in Manila?
- A. Very frequently. He was not all the time at Luzon, or Manila, when he went to the other provinces I did not see him.
- Q. Do you know the name of the town or province that he went to from Manila?
- A. He went to one province at a time and another at another. I, being a broker, do not know the language down there.
- Q. By what name did you know this man in Manila?
- A. He was known as Vicente Ormero Sy Quian-a.
- Q. Is the father and mother of this man you refer to as Vicente, living or dead?
- A. Father and mother both dead.
- Q. Where did they die—in what village?
- A. In Am Thau.

Q. Was Sy Quia married or single?

A. Sy Quian was married in China.

Q. In what village?

A. He married a girl of Lao Boan village, called Yap Puan Niu.

Q. When was this man married?

A. He came home to be married when twenty-five years old.

Q. How do you know he was married?

A. By reason of my relation to him as a clansman, and the fact that I was present at the feast and the celebration and "saw the bride" on her wedding day.

Q. Where were they married?

A. They were married in the house Sy Quian's father and mother lived in.

Q. In what village was this in?

A. Am Thau village.

Q. When Sy Quia (pronounced by the witness with a nasal sound) married Yap Pua (pronounced with a nasal sound) was he married or single?

A. He was single and Yap Puan was the only wife he married.

Q. How do you know he was single?

A. By reason of my relationship; I know it as a fact that he came home for the purpose of getting married.

Q. Was Lap Puan married or single when she married this man?

A. She was single.

Q. After Sy Quia (pronounced with a nasal sound) was married, where did he live?

A. In the same house with his father and mother.

Q. In what village?

A. Am Thau.

Q. How long did he remain there after he was married?

A. After he was married a son was born, the second year another; the following year these children were taken care of by the wet nurse. He left home to go abroad after the second son was born.

Q. Where did he go to?

A. To Manila.

Q. Did he afterwards return, if so when?

A. He did; not very long after he was gone Sy Quian's uncle sent a ship here, Sy Quian being the supercargo, he, however, left soon again with that ship.

Q. How do you know he returned?

A. I went to see him to get information concerning my brothers who were then in Manila.

Q. Did Sy Quian and his wife have any children, if so, how many?

A. Two sons.

Q. How do you know that this couple had these two children?

A. When sons are born the father sends around cakes and so forth to notify the relatives, and they come to congratulate him, that is the way I came to know it.

Q. Where did these two sons live?

A. In the same house.

Q. With whom?

A. At that time the grandfather and grandmother of these two sons were dead, they lived with their father's younger brother, his wife, and their mother.

Q. In what village?

A. In Am Thau.

Lim Chio testified as follows:

Q. What is your name?

A. My surname is Lim, and I have married into the Yap family.

A. State your name in full?

A. Lim Chio.

Q. Where do you live?

A. In Lau Poan.

Q. What is your occupation?

A. I have no particular occupation; I am an old woman looking after the family.

Q. How old are you?

A. Seventy-seven years old.

Q. How long have you lived in Lau Poan village?

A. A very long time; ever since I was married.

Q. Where did you live before you were married?

A. Before I was married I lived in my old home in Tung Bin.

Q. Are you married or a widow?

A. I am a widow, my husband having died more than twenty years ago.

Q. When were you married?

A. When I was seventeen years old I was married into the Lau Poan village.

Q. Whom did you marry?

A. I married Yap Su.

Q. Did you know a woman by the name of Yap Puan Niu?

A. Yes; I did.

Q. Where did you first know her?

A. At the time of my marriage. She lived in the upper house and she acted on the day of my marriage as my maid.

Q. What do you mean by the "upper house"?

A. I mean the next house to mine.

Q. How far was that house from the house you lived in?

A. Very close together; next door, in fact.

Q. When you first -new Yap Puan Niu, state, if you know, whether she was married or single?

A. She was single.

Q. Do you speak the Amoy dialect?

A. Yes.

Q. Do you know whether or not Yap Puan Niu was married?

A. She afterwards married Sy Quian.

Q. You stated that Yap Puan Niu was single when she acted as your maid. State if you know whether or not she subsequently became a married woman.



A. The next year after that she married.

Q. Whom did she marry?

A. She married Sy Quian, of the Am Thau village.

Q. Where did you live at the time Yap Puan Niu was married?

A. I lived as her neighbor.

Q. Where was Yap Puan Niu married?

A. In the Lau Puan village.

Q. How do you know that she married Sy Quian of the Am Thau village.

A. He first obtained her "eight characters" and he sent a red chair for her.

Q. State, if you know, who, if anyone, arranged the marriage between Sy Quian and Yap Puan Niu.

A. Yes; there was one, Yap Hong was the mediator.

Q. How do you know Sy Quian sent a red chair for Yap Puan Niu?

A. I was there to help Yap Puan Niu put on the bridal suit and assisted her into the red chair.

Q. State, if you know, whether this man Yap Hong was present at the time of the coming and departure of the red chair.

A. He was with the party that came with the red chair, and also departed with the red chair, as the mediator.

Q. State, if you know, where Sy Quian went after he left Am Thau.

A. He went to Manila.

Q. State, if you know, about how old Yap Puan Niu was when she married Sy Quian.

A. She was about twenty-one years old at the time she married Sy Quian.

Q. State, if you know, whether Yap Puan Niu had ever been married before she married Sy Quian.

A. No; she had not been married.

Q. State, if you know, whether Sy Quian had ever been married before he married Yap Puan Niu.

A. No. Had he been married his proposal would have been refused.

Q. Did Sy Quian and his wife Yap Puan Niu have any children? State, if you know.

A. Yes.

Q. How many?

A. Two.

Q. Boys or girls?

A. Both boys.

Q. Do you know their names?

A. The older one was named Sy Bi (Mi) Bo, and the other one Sy Bi (Mi) Git. They were brothers.

Q. Is Sy Quian living or dead?

A. He is dead.

Q. Is his wife, Yap Puan Niu, living or dead?

A. She is dead.

Q. When did she die?



A. She has been dead fifteen or sixteen years; she died before Sy Quian.

Q. Where did she died?

A. In Am Thau.

Q. Where was Sy Quian buried?

A. In Manila.

Yap Si Tan testified as follows:

Q. What is your name?

A. Yap Si Tan.

Q. Where do you live?

A. At present in Lao Poan.

Q. How old are you?

A. Seventy-eight.

Q. Are you married or single?

A. Married.

Q. Where is your husband?

A. He is dead now.

Q. Where were you married?

A. In Lao Poan.

Q. Did you know a woman of the name of Yap Puan Niu?

A. Yes; I did.

Q. Where did you first know her?

A. First time I knew her was when we were small girls, we lived as neighbors.

Q. How old were you when you got married?

A. Fifteen years old.

Q. When you first knew Yap Puan Niu was she married or single?

A. She was not married.

Q. Where is she now?

A. She is in Am Thau.

Q. Is she living or dead?

A. Dead.

Q. About how long has she been dead?

A. Fifteen or sixteen years.

Q. Do you know whether or not she was married?

A. Yes; Yap Puan married Sy Quian.

Q. How do you know that Yap Puan Niu married Sy Quian?

A. She was my elder cousin. I was there by her invitation at the time of her wedding.

Q. About how old was Yap Puan Niu at the time of her marriage?

A. Twenty-one years old at the time of her marriage.

Q. Do you know if she had ever been married before?

A. No; she was not.

Q. Where were Sy Quian and Yap Puan Niu married?

A. Sy Quian and Yap Puan Niu were married at Am Thau and Lao Poan, respectively.

Q. Do you know whether or not any one arranged the marriage between Sy Quian and Yap Puan Niu?

A. Yap Hong was the mediator.

Q. State, if you know whether the mediator, Yap Hong, was present at the marriage?

A. Yes; he came with the red chair, but he did not come after the marriage.

Q. How do you know the bride was sent for to be married?

A. On the betrothal day there were sent from the groom's family the usual presents, which were distributed among the friends and the relatives of the bride's family. In the same manner were those return presents, such as Chinese breast pieces, and so forth, distributed among the friends and relatives of the groom's family, in this way the betrothal was made known. Two days prior to the marriage the bridal dress was sent to the bride's family.

Q. Were you present at the time the party left with the red chair?

A. I was.

Q. Do you know whether Sy Quian and his wife had any children?

A. Yes; the very next year after the marriage.

Q. How many children did they have?

A. Two.

Q. What were their names?

A. One was named Sy Bi (Mi) Bo and the younger one Sy Bi (Mi) Git.

Q. Were these children ever in your village?

A. Yes; they were. Their mother Yap Puan Niu took them there.

Q. Was Sy Quian ever in that village after the twelfth day that you have mentioned?

A. Yes.

Q. State, if you know, how long Sy Quian remained in Am Thau after his marriage to Yap Puan Niu.

A. Three or four years.

Q. State, if you know, where he went.

A. To Manila.

Q. Did he ever return?

A. Three or four months afterwards he came back as a super-cargo of a certain steamer.

Q. How long did he remain?

A. Only upwards of ten days. He left again with the same steamer.

Q. State, if you know, where Sy Quian is now.

A. In Manila.

Q. Is he living or dead?

A. Sy Quian, I understand, is dead.

Yap Chia testified as follows:

Q. What is your name?

A. Yap Chia.

Q. Where do you live?

A. Lao Poan.

Q. What is your occupation?

A. I have been a farmer and am now village elder.

Q. How old are you?

A. Seventy-two.

Q. How long have you lived in the Lao Poan village?

A. Ever since I was born there.

Q. Did you know a woman by the name of Yap Puan Niu?

A. Yes; she was a cousin by the same grandfather and lived in the same house with me.

Q. How long did you and Yap Puan Niu live in the same house together?

A. She lived in the same house with me until she was married.

Q. State, if you know, whom she married.

A. She married Sy Quian of Am Thau village.

Q. State, if you know, whether she had even been married before.

A. No, she was not. A certain member of my house from Am Thau village made very diligent inquiries concerning Yap Puan Niu; the fact was her "eight characters" had never been asked for and sent out of the house. The woman from Am Thau village was called Im.

Q. How do you know they were married?

A. Because I lived in the same house with Yap Puan Niu, was present on the betrothal day, and was present when the red chair came and when she left in that chair. On the last-named occasion I was firing the big firecrackers which were about the size of my two arms put together.

Q. Who was the mediator?

A. Yap Hong.

Q. State, if you know, where Sy Quian and Yap Puan Niu lived after their marriage.

A. They lived in Am Thau.

Q. How long did Sy Quian continue to live in Am Thau?

A. Three or four years.

Q. State, if you know, where Sy Quian went after he left Am Thau.

A. He went to Luzon or Manila.

Q. Do you know how old Sy Quian was at the time of his marriage?

A. He was four or five years older than Yap Puan Niu, he was about twenty-five years old.

Q. State, if you know, whether Sy Quian and his wife Yap Puan Niu had any children.

A. Yes. The very next year after the marriage they had a son, Bi (Mi) Bo by name.

Q. How many children did they have altogether?

A. Two. The other one, Bi (Mi) Git by name. Those two I saw on my visit to their mother's old home.

Q. Is Sy Quian living or dead?

A. He is dead.

Q. When did he die?

A. More than ten years ago.

Q. Where?

A. In Luzon. He had never been home since his third return.

Q. Is his wife Yap Puan Niu living or dead?

A. Also dead.

Q. Where did she die?

A. In Am Thau. I was present at her funeral.

1105 Q. When did she die?

A. Fifteen or sixteen years ago.

Q. Who died first—Sy Quian or Yap Puan Niu?

A. Sy Quian's wife died first.

Sy Kai Tit testified as follows:

Q. What is your name?

A. Sy Kai Tit.

Q. Where do you live?

A. Na Au.

Q. What is your occupation?

A. Elder of the village.

Q. How old are you?

A. Seventy-one years old.

Q. How long have you lived in Na Au?

A. Ever since I was born there.

Q. Do you know the village of Am Thau?

A. Yes, I do.

Q. How far is it from your village?

A. 600 or 700 steps.

Q. To what clan do you belong?

A. To the Sy clan.

Q. Were you acquainted with Sy Quian?

A. Yes; we were acquainted.

Q. How long did you know Sy Quian?

A. The first time I knew him was when he came home to be married.

Q. About how old was he at that time?

A. He was twenty-five years old.

Q. At the time he came home, state, if you know, whether he was married or single.

A. He had not been married.

Q. State whether or not he was married at any time during your acquaintance with him.

A. He came home from abroad for the special purpose of getting married. He had not been married before.

Q. State whether or not he did get married.

A. Yes, he did.

Q. State with whom.

A. Yap Puan Niu of Lao Poan.

Q. When.

A. When he was twenty-five years old.

Q. How long after he returned from abroad?

A. Only a few months after he came back from abroad did he marry the girl of his father's choice.

- Q. Where?  
A. In Am Thau.  
Q. State, if you know, whether they had any children.  
A. Yes.  
Q. How many?  
A. Two—one Bi (Mi) Bo and the other Bi (Mi) Git by name.  
Q. How long did you know these two children, Sy Bi (Mi) Bo and Sy Bi (Mi) Git?  
A. I knew them since they were mere boys; I used to visit their home quite often.  
Q. How long did Sy Quian remain in Am Thau after his marriage?  
A. Three or four years. Then he went abroad again.  
Q. During these three or four years, were you ever in the house of Sy Quian and Yap Puan Niu, his wife?  
A. I was in the house during these three or four years almost every day; I had nothing to do then, and went there to have a chat with him.  
Q. How do you know that they had these two children?  
A. By reason of my visits, as I have stated, and by reason of the cakes, and so forth, which I received on the births of these two children as notification thereof.  
Q. Where is Sy Quian now?  
A. He is dead in Manila.  
Q. Where is Yap Puan Niu now?  
A. She is also dead.

Yap Chong testified as follows:

- Q. What is your name?  
A. Yap Chong.  
Q. Where do you live?  
A. In Lao Poan.  
Q. What is your occupation?  
A. I am elder of the village. I have been a farmer heretofore.  
Q. How old are you?  
A. Seventy-one years old.  
Q. Were you acquainted with Yap Puan Niu?  
A. Yes. I am acquainted with Yap Puan Niu. She was of my village.  
Q. When did you first know her?  
A. She was my neighbor, and I knew her since she was a child; she was older than myself.  
Q. Where is she now?  
A. She is now dead; she died in Am Thau.  
Q. How long ago?  
A. She has been dead about fifteen or sixteen years.  
Q. State, if you know, whether she was married or single at the time of her death.  
A. She was married in Am Thau; husband's name Sy Quian.  
Q. When were they married?

- A. When she was about twenty-one years old.
- Q. State, if you know, whether Sy Quian and Yap Puan Niu had any children.
- A. Yes.
- Q. How many?
- A. They had two.
- Q. Boys or girls?
- A. Boys.
- Q. What were their names?
- A. The elder one was named Bi (Mi) Bo.
- Q. And the younger one?
- A. Bi (Mi) Git.
- Q. When was Sy Bi (Mi) Bo born, in reference to the marriage of Sy Quian and Yap Puan Niu?
- A. The next year after their marriage.
- Q. When was Sy Bi (Mi) Git born?
- A. The next year after the other one.
- Q. At the time of the marriage of Yap Puan Niu to Sy Quian, state, if you know, whether she was married or single.
- A. No, she was not married.
- Q. State, if you know, whether Sy Quian was married or single at the time he married Yap Puan Niu.
- A. No, he was not married.
- Q. Where is Sy Quian now?
- A. He is dead.
- Q. Where did he die?
- A. He died in Manila.

Sy Boan testified as follows:

- Q. What is your name?
- A. Sy Boan.
- Q. Where do you live?
- A. Na Au, Am Thau.
- Q. How old are you?
- A. Seventy-eight years old.
- Q. How long have you lived in Am Thau?
- A. I have been living there in Na Au since I was born.
- Q. Where is Na Au in reference to Am Thau?
- A. Joining one another.
- Q. Were you acquainted with Sy Quian?
- A. Yes, sir, Sy Quian I know.
- Q. How long did you know Sy Quian?
- A. I was born in Na Au, knew him since a boy.
- Q. Where is he now?
- A. He is dead.
- Q. When did he die?
- A. More than ten years ago.
- Q. Where?
- A. Manila.
- Q. State, if you know, whether he was married or single?

- A. He was married.  
Q. Where was he married?  
A. In Am Thau.  
Q. When?  
A. When he was more than 20 years old.  
Q. Whom did he marry?  
A. He married Yap Puan Niu, of Lao Poan.  
Q. How do you know?  
A. I was present at his wedding and invited to the wedding feast.  
Q. How long did he remain in Am Thau after he was married?  
A. After his marriage he stayed three or four years before he went abroad again.  
Q. Was Sy Quian married or single at the time he married Yap Puan Niu?  
A. He was not married.  
Q. At the time Yap Puan Niu married Sy Quian, was she married or single?  
A. She was not married.  
Q. Do you know who arranged this marriage?  
A. The mediator.  
Q. Did Sy Quian and his wife have any children? If so, how many?  
A. Yes, two.  
Q. Boys or girls?  
A. Boys.  
Q. What were their names?  
A. One Bi (Mi) Bo and the other, the younger, Bi (Mi) Git by name.  
Q. When was Sy Bi (Mi) Bo born, with reference to the marriage?  
A. One year or more after the marriage.  
Q. When was Sy Bi (Mi) Git born, in reference to the marriage?  
A. He was born in the year following.  
Q. During the three or four years that Sy Quian lived in Am Thau after his marriage, were you ever in his house?  
A. Yes.  
Q. How often?  
A. Occasionally.  
Q. Where is Sy Quian's wife, Yap Puan Niu, now?  
A. She is dead.

Sy Kong Leng testified as follows:

- Q. What is your name?  
A. Sy Kong Leng.  
Q. Where do you live?  
A. Na Au.  
Q. What is your occupation?  
A. I am the elder of the village.  
Q. How old are you?  
A. Fifty-eight.  
Q. Where is Na Au, in reference to Am Thau?



A. It is simply another name; it is part of Am Thau.

Q. How long have you lived there?

A. I have lived there very long. When I was nineteen years old I went abroad.

Q. When you went abroad, what place did you go to?

A. To Luzon.

Q. To what part of Luzon?

A. Manila.

Q. How long did you remain in Manila?

A. Two or three years.

Q. And then where did you go?

A. Returned home.

Q. How long did you remain at home?

A. For two or three years; then I went there again.

Q. How long did you remain in Manila at that time?

A. Only two months or more, then I went to some province of the Philippine Islands.

Q. Are you acquainted with Sy Quian, formerly of the An Thau village?

A. Yes.

Q. When did you first become acquainted with Sy Quian?

A. When I was a boy in my teens.

Q. And where did you first become acquainted with him?

A. In Am Thau.

Q. Where is Sy Quian now?

A. He is dead.

Q. Where did he die?

A. He died in Manila.

Q. At the time of his death was Sy Quian married or single?

A. He was not only married but had children at the time of his death.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did he live?

A. In Am Thau.

Q. Where is she now?

A. She is dead.

Q. Did Sy Quian and his wife, Yap Puan Niu, have any children?

A. Yes.

Q. How many?

A. Two.

Q. Boys or girls?

A. Boys.

Q. What were their names?

A. The older one Bi (Mi) Bo and the younger Bi (Mi) Git by name.

Q. Were you acquainted with Sy Quian in any other place than Am Thau?

A. Sy Quia is the name of Sy Quian as it is given in Manila.

Q. How often did you meet him in Manila?

A. We lived in the same house in Manila.

Q. Did you meet Sy Quian while abroad? If so, where?

A. Yes. In Manila; lived in the same house with him.

Q. By what name or names was he known in Manila?

A. Vicente Romero Sy Quia.

Q. How long did you live in the same building with Vicente Romero Sy Quia?

A. Two or three years.

Sy Jong Oan testified as follows:

Q. What is your name?

A. Sy Jong Oan.

Q. Where do you live?

A. Am Thau.

Q. What is your occupation?

A. I am elder of the village.

Q. How old are you?

A. Fifty-three.

Q. How long have you lived there?

A. I have been abroad, but since my return I have lived there.

Q. Where were you born?

A. Am Thau.

Q. When you went abroad, to what place did you go?

A. Manila.

Q. How old were you when you first went abroad?

A. Twenty-one years old.

Q. How long did you remain in Manila?

A. Five years.

Q. And where did you then go?

A. Came home.

Q. How long did you remain at home?

A. Two years.

Q. And then where did you go?

A. Manila.

Q. How long did you remain in Manila that time?

A. Two years, I came home then when I was twenty-eight years old.

Q. How long did you remain at home?

A. Two years again this time.

Q. And then where did you go?

A. To Manila.

Q. How long did you remain in Manila?

A. I came home when I was thirty years old and remained until I was thirty-six, when I again went to Manila.

Q. Did you know a man in Am Thau by the name of Sy Quian?

A. Yes. I did.

Q. When did you first know him?

A. When I was eight or nine years old he returned to China then.

Q. To what place in China?

A. Am Thau.

- Q. How long did he remain in Am Thau?
- A. A year or more.
- Q. Where did he go then?
- A. Manila.
- Q. Did you ever see him again?
- A. Yes; when I went there at 21 I met him there.
- Q. What was the occasion of your meeting him there?
- A. I lived in Binondo and Sy Quian in Jaboneros, I had a message from him, so I called on him.
- Q. Did you meet him?
- A. Yes.
- Q. Have any conversation with him?
- A. Yes.
- Q. Where?
- A. In his house.
- Q. Did anyone else live in that house?
- A. I saw a Filipino woman and some men, Filipinos.
- Q. By what name was he known in Manila?
- A. Vicente Romero Sy Quia.
- Q. How often did you meet Vicente Romero Sy Quia in Manila?
- A. Very often.
- Q. Where is he now?
- A. Dead.
- Q. How do you know that Vicente Romero Sy Quia is dead?
- A. I was in Manila at the time of his death, and came home the next year.
- Q. State, if you know, where he was buried.
- A. He was buried in the Chinese cemetery in Manila.
- Q. How do you know?
- A. I was present at his funeral.
- Q. At the time of his death was he a married or a single man?
- A. He was married.
- Q. What was the name of his wife?
- A. Yap Puan Niu.
- Q. Where did she live?
- A. Am Thau.
- Q. Where is she now?
- A. Dead.
- Q. By what name was Yap Puan Niu's husband known in Am Thau?
- A. Sy Quian.
- Q. By what name was Yap Puan Niu's husband known in Manila?
- A. Vicente Romero Sy Quia.
- Q. At the time of the death of Vicente Romero Sy Quia and Yap Puan Niu did they have any children?
- A. Yes.
- Q. How many?
- A. Two.
- Q. Boys or girls?
- A. Boys.
- Q. What were their names?

A. The older one Sy Bi (Mi) Bo and the younger one Sy Bi (Mi) Git.

Lim Pan Ling testified as follows:

Q. State your name.

A. Lim Pan Ling.

Q. Are you of the Catholic religion?

A. Yes, sir.

Q. How old are you?

A. Fifty-two years of age, going on fifty-three this year.

Q. Of what nationality was your father?

A. Chinese.

Q. Where was your father born?

A. In Amoy.

Q. How many wives did your father have?

A. He was married in China and also in Cebu.

Q. Were you ever in China?

A. Yes, sir.

Q. How many times?

A. I have been in China three times.

Q. How old were you the first time you went there to China?

A. I was ten year old.

Q. How long did you stay in China that time?

A. Six years.

Q. Where did you live when you were in Am Thau?

A. In the house of Sy Quia.

Q. Where did you first know Sy Quia?

A. I was a child when I first knew him.

Q. Did you know him first in the Philippine Islands or in China?

A. In China.

Q. Where did Sy Quia live when you knew him in China?

A. At Am Thau.

Q. In what house in Am Thau?

A. In the house of Sy Quia.

Q. Where is Sy Quia now?

A. He is dead.

Q. When did he die?

A. In 1894.

Q. Where did he die?

A. Here in Manila.

Q. Where is he buried?

A. At the Chinese cemetery, at Pambundoc.

Q. How do you know that Sy Quia is buried there?

A. Because I went to his funeral the day he was buried.

Q. Are there any other graves immediately adjacent to that one of Sy Quia?

A. Yes, sir.

Q. Do you know who are buried in any of the graves immediately by the side of that of Sy Quia?

A. Joaquin Sy Ty.

Q. Who was Joaquin Sy Ty?

A. He was a brother of Sy Quia.

Q. Do you know whether the Sy Quia who is buried in that grave had any brothers?

A. Yes, sir; he had other brothers.

Q. How many brothers did he have?

A. There were five.

Q. Give their names.

A. First there was Sy Quia, then Sy Ty, then Sy Tiap, then my mother, Sy Chua Niu, and then Sy Hien.

Q. Did Sy Quia have any sisters?

A. Yes, sir; my mother.

Q. Do you know whether Sy Quia had a Christian name in these Islands?

A. Yes, sir.

Q. What was his Christian name?

A. Vicente Romero Sy Quia.

Q. Where is Sy Quia's brother Sy Ty?

A. He is dead; he died here in Manila.

Q. Where is Sy Quia's brother Sy Tiap?

A. I do not know; I was told he died long ago.

Q. And where is that sister, Sy Chua Niu, whom you have referred to as your Chinese mother?

A. She is dead, in China.

Q. And where is Sy Quia's brother Sy Hien?

A. Here in Manila.

Q. What identity, if any, is there between the Sy Quia with whom you say you lived in Am Thau, China, and the Vicente Romero Sy Quia whom you say died here in 1894?

A. They are one and the same person.

Q. How old were you when you stayed in the house of Sy Quia in Am Thau?

A. Thirteen years of age.

Q. Do you know whether Sy Quia was married or single at the time you were living in the same house with him in China?

A. He was married.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did Yap Puan Niu live, in what house?

A. In the house of Sy Quia.

Q. In the village of Am Thau?

A. Yes, sir.

Q. Did Sy Quia and his wife, Yap Puan Niu, have any children?

A. Yes, sir.

Q. How many?

A. Two.

Q. Boys or girls?

A. Both boys.

Q. What were their names?

A. Sy Bi Bo, Sy Bi Git; the family name is Sy.

Sy Hien testified as follows:

Q. State your name.

A. Sy Hien.

Q. What is your age?

A. I am 59 years of age.

Q. Where were you born?

A. At Am Thau, Amoy, China.

Q. Did you have any brothers?

A. Yes, sir.

Q. What were their names?

1106 A. The oldest was Sy Quia, who was also named Vicente Romero Sy Quia; then came Sy Ty, and afterwards Sy Tiap, and then myself.

Q. Who was the youngest among these brothers?

A. I am the youngest of all.

Q. Did you have a sister?

A. Yes, sir.

Q. What is her name?

A. Sy Chua Niu.

Q. Do you know Lim Pan Ling?

A. Yes, sir.

Q. What relation is there between him and your sister?

A. He is just like a son of Lim Chiatco.

Q. Do you mean to say that he was a son of Lim Chiatco with your sister?

A. Yes, sir.

Q. Where are your brothers now?

A. They are all dead.

Q. If Sy Quia were living now, about how old would he be?

A. Approximately 80 years of age.

Q. What is the difference of age between you and your brother Sy Quia?

A. About twenty-five years' difference.

Q. Do you know whether or not Sy Quia was married during his lifetime?

A. Yes, sir; he was married in China.

Q. Where did he get married in China?

A. In my pueblo at Am Thau.

Q. With whom did he get married?

A. With Yap Puan Niu.

Q. Where is his wife now?

A. She is dead.

Q. During the lifetime of Sy Quia's wife, where did she live?

A. In the house of Sy Quia.

Q. Where?

A. At Am Thau.

Q. You have stated that Sy Quia is dead now; when did he die?

A. I believe in 1894.

Q. During the marriage contract of your brother Sy Quia, did he have any children?

A. Yes, sir; two sons.

Q. What are their names?

A. The oldest was Sy Bi Bo; the second, Sy Bi Git.

Q. What are the ages of the children of your brother Sy Quia living now.

A. The same age as myself, the youngest one is one year younger than I am.

Q. Where were Sy Bi Bo and Sy Bi Git born?

A. At Am Thau, China.

Q. In whose house?

A. In the house of the family, Sy Quia's house.

Q. How long did Sy Quia live in that house after he got married?

A. Sometimes he lived in China and sometimes he lived here in Manila.

Q. Do you know whether or not after his marriage in China he came to the Philippine Islands, to Manila?

A. Yes, sir; he did.

Q. How long after the marriage of Sy Quia in China did he come to the Philippine Islands?

A. I do not know how long after it was; I do not even know what year he came to Manila.

Q. How old was Sy Quia when he came to the Philippine Islands the first time, if you know?

A. From what my parents told me Sy Quia was 12 years old when he came to the Philippine Islands the first time.

Q. How old were you when you came to the Philippine Islands the first time?

A. Twelve years of age.

Q. With whom did you live in Manila?

A. In the same house with Sy Quia.

Q. Who else were living in the house of Sy Quia besides you?

A. Sy Quia and Sy Ty and all our relatives.

Q. How long did you live there in that house of your brother Sy Quia, more or less?

A. The first time over twelve years.

Q. Who supported the family of Sy Quia at Am Thau?

A. Sy Quia himself; he sent money to his family every year.

Q. How do you know that Sy Quia sent money to his family at Am Thau?

A. Because sometimes it went through my hands.

Q. What amount of money did Sy Quia send to his family each year at Am Thau, China?

A. Every year he sent P1,000.

Q. Who supported Sy Yoc Leng?

A. His grandfather also.

Q. What was the name of his grandfather?

A. Vicente Sy Quia.

Q. Who was paying for his education?

A. Always the grandfather.

Q. How do you know that fact?

A. Because sometimes the money went through my sister-in-law's hands, and she gave it to me.



Q. How was Sy Yoe Leng treated by Sy Quia?

A. As his grandson.

Q. How did Sy Quia refer to Sy Yoe Chay and Sy Yoe Leng?

A. As his grandchildren.

Q. By what name was Sy Quia known in Manila?

A. He was known in Manila by the name of Vicente Romero Sy Quia.

Q. What relationship existed between Vicente Romero Sy Quia and Sy Jui Niu?

A. Sy Jui Niu is the granddaughter of Sy Quia.

Q. What relationship exists between Sy Chua Niu and Vicente Romero Sy Quia?

A. Also his granddaughter, the daughter of Sy Bi Git.

Q. Were you in Manila at the time of the death of Vicente Romero Sy Quia?

A. Yes, sir; I was.

Q. Where was he buried?

A. In the Chinese cemetery.

Q. Do you know Petronila Encarnacion?

A. Yes, sir; of course.

Q. Where is she now?

A. She is dead.

Q. When did she die?

A. I do not remember exactly whether this year or last.

Q. Where is Petronila Encarnacion buried?

A. I believe at Paco.

Q. What relationship existed between Sy Quia and the said Petronila Encarnacion?

A. She was his legitimate wife, married to him, and he had many children with her.

Q. In China or in the Philippine Islands?

A. In the Philippine Islands.

Q. Do you know the names of the children of Sy Quia by Petronila Encarnacion?

A. Yes, sir.

Q. What are their names?

A. Gregorio, Pedro, Juan, and the two women are Maria and Apolinaria.

Q. Was the Vicente Romero Sy Quia who was married here in the Philippine Islands to Petronila Encarnacion the same Sy Quia or Sy Tiong Qui who married Yap Puan Niu in China?

A. Yes, sir; one and the same person.

Lim Pan Ling, being recalled, testified as follows:

Q. Where is the Sy Hien that you referred to yesterday as the youngest brother of Sy Quia?

A. He is here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is [indicating the witness who has just left the stand.]

Sy Hien, being recalled, testified as follows:

Q. Will you write in Chinese characters the name of Yap Puan Niu.

(Witness writes, and attorney for plaintiffs identifies by marking it "name No. 3.")

Q. Will you now please write the name of Sy Bi Bo in Chinese characters?

(Witness writes, and attorney for plaintiffs identifies by marking it "name No. 4.")

Q. Will you now please write in Chinese characters the name of Sy Bi Git?

(Witness writes, and attorney for plaintiffs identifies by marking it "name No. 6.")

Q. What relation, if any, is Yap Puan Niu, whose name you have written at No. 3, to the Sy Quia whom you have referred to as having lived in Manila and whose name you have written at No. 1 of plaintiff's Exhibit 6?

A. Yap Puan Niu is the legitimate wife of Sy Quia, whom he married in China.

Q. What relation is Sy Bi Bo, whose name you have written at No. 4, to the Sy Quia to whom you have just referred?

A. Sy Bi Bo is the son of Sy Quia.

Q. What relation is Sy Bi Bo to Ho Gim Niu, whose name you have written at No. 5?

A. Ho Gim Niu is the wife of Sy Bi Bo.

Q. What relation is there between Sy Bi Git, whose name you have written at No. 6, and the Sy Bi Bo whom you have just mentioned?

A. Sy Bi Git is the younger, and Sy Bi Bo is the older son of Sy Quia.

Q. Were you born from the same mother that Sy Quia was?

A. Yes, sir; from the same mother.

Q. Are you sure that you are 59 years of age now?

A. Yes, sir; I am 59 years of age.

Q. You have stated that Sy Yoc Chay and Sy Yoc Leng, when they came to Manila, were sent to school at the expense of Sy Quia. To what school were they sent?

A. To a private school at Calle Elcano.

Q. To a Chinese school?

A. No; a Spanish school.

Q. You also stated yesterday that you knew that Sy Yoc Chay and Sy Yoc Leng were sent to school at the expense of Sy Quia, and you knew that fact because the money for these expenses sometimes passed through your hands, given to you by Doña Petronila Encarnacion. Are you sure of that?

A. Yes, sir; sometimes the money was given to me to pay these expenses.

Q. Was the money given to you by Doña Petronila Encarnacion herself?

A. Yes, sir; in the house at Santo Cristo.

Sy Quia Quion testified as follows:

Q. Please state your name.

A. Sy Qui Quion.

Q. How old are you?

A. Fifty years of age.

Q. Where were you born?

A. In China.

Q. What town?

A. Am Thau.

Q. Where is Am Thau, in reference to Amoy?

A. It is very near, one hour's walk from Amoy.

Q. How long have you been in the Philippine Islands?

A. At the present time over thirty years.

Q. How old were you when you first came to the Philippine Islands?

A. Fifteen years of age; and after staying in Manila three years I went back to China.

Q. Did you know a man by the name of Don Vicente Romero Sy Quia in Manila?

A. Yes, sir; I knew him because my grandfather and his grandfather are brothers, therefore Sy Quia and myself are like cousins.

Q. When did you first know Vicente Romero Sy Quia?

A. The first time I knew him I was in China, I was about 9 or 10 years old.

Q. How far was your father's house from the house of Sy Quia in Am Thau, China?

A. About double the distance to that house there [indicating a house about 20 rods distant].

Q. By what name did you know him in Am Thau, China?

A. Who do you mean?

Q. Don Vicente Romero Sy Quia.

A. Some people called him Sy Quia, and some people called him Sy Quii.

Q. Where is Sy Quia now?

A. He is dead now.

Q. Where did he die?

A. Here in Manila.

Q. Did Sy Quia have any brothers and sisters?

A. Yes, sir.

Q. Give the names of the brothers.

A. Sy Ty, Sy Tiap, and Sy Ty Hien; they were four in all.

Q. How many sisters did he have?

A. One sister.

Q. Give her name.

A. Sy Chiu Niu.

Q. Was Sy Quia married or single?

A. Married.

Q. What was the name of his wife?

A. Yap Puan Niu.

Q. Where did Yap Puan Niu live?

A. She lived in the house of Sy Quia.

Q. Did Don Vicentè Romero Sy Quia and Yap Puan Niu have any children?

A. Yes, sir; he had two sons, and when I was a boy I used to go to school with his two sons.

Q. Who was the older, you or the boys of Sy Quia?

A. The boys of Sy Quia were older than me.

Q. How much older were they?

A. One of them was ten or eleven years older than me, that was Sy Bi Bo, and Sy Bi Git was eight or nine years older than me.

Q. Where is Sy Hien now?

A. Here in Manila; that is the witness who has just left the stand.

Q. What relation was he to Sy Quia?

A. Brother; Sy Quia was the oldest brother.

Q. Was Sy Bi Bo married or single at the time of his death?

A. Married.

Q. How do you know that he was married?

A. Because I was in China at the time Sy Bi Bo and Sy Bi Git were married.

Q. What was the name of the wife of Sy Bi Bo?

A. Ho Gim Niu.

Q. Where is Ho Gim Niu now?

A. She is also dead.

Q. Where did she die?

A. In China.

Q. What is the name of the adopted son?

A. Sy Yoc Chay.

Q. Where is Sy Yoc Chay now?

A. Here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is [indicating the plaintiff, Sy Yoc Chay].

Q. When did you first see the adopted son, Sy Yoc Chay?

A. He was a small boy, about 3 or 4 years of age, when I first saw him. Sy Bi Bo told me that that was his son, and that the other one, Sy Yoc Leng, was the son of Sy Bi Git.

Q. What relation, if any, was this Yap Puan Niu to the Don Vicente Romero Sy Quia whom you have testified about?

A. She was the wife of Sy Quia.

Sy Siang testified as follows:

Q. What is your name?

A. Sy Siang.

Q. How old are you?

A. Sixty years of age.

Q. Where were you born?

A. In Am Thau.

Q. Did you know a man in Manila by the name of Don Vicente Romero Sy Quia?

A. I did.

Q. When did you first know him?

A. In China.

Q. In what place in China?

A. At Am Thau.

Q. How old were you when you first knew Don Vicente Romero Sy Quia in Am Thau?

A. I was about 18 or 19 years of age when I saw him in Am Thau, China; when I went there to visit my relatives, that is the first time I knew him.

Q. State, if you know, in whose house Sy Quia lived while in Am Thau?

A. His own house, a large house, the largest of all.

Q. Did Sy Quia have any brothers and sisters?

A. Yes, sir.

Q. How many brothers did he have?

A. First Sy Ty, then Sy Tiap, then a brother, whose name I don't know, who is dead, and then Sy Hien.

Q. Did Sy Quia have any sisters?

A. Yes, sir.

Q. What was the name of the sister?

A. Sy Chua Niu.

Q. Where is the brother, Sy Hien?

A. Here in Manila.

Q. How long did you know Don Vicente Romero Sy Quia in China?

A. The first time I knew him was when I went to pay a visit to my parents; I was a boy 18 or 19 years of age when I knew him the first time.

Q. About how long did Sy Quia remain in Am Thau that time?

A. He came back to China on that occasion to arrange for the burial of his father and mother, and to settle everything.

Q. Where is Don Vicente Romero Sy Quia now?

A. He is dead.

Q. Where did he die?

A. Here in Manila.

Q. Was Sy Quia married or single?

A. Married.

Q. What was the name of his wife?

A. Which wife do you mean; the wife here or the wife in China?

Q. Both wives.

A. The wife here was called Ba Lang, the wife in China was called Yap Puan Niu.

Q. Where is Yap Puan Niu?

A. She is dead.

Q. Where did she die?

A. At Am Thau.

Q. When did she die?

A. I believe fourteen or fifteen years ago.

Q. Who died first, Sy Quia or Yap Puan Niu?

A. Yap Puan Niu died first.

Q. Did Vicente Romero Sy Quia have any children with Yap Puan Niu?

A. Yes, sir.

Q. How many?

A. Do you mean in China?

Q. I mean how many children did Vicente Romero Sy Quia have with his wife Yap Puan Niu?

A. Two.

Q. Boys or girls?

A. Boys.

Q. What were their names?

A. Sy Bi Bo was the first one, and the second one was Sy Bi Git.

Q. When did you first know these two boys?

A. They were in the same school with me.

Q. In what town?

A. Am Thau.

Q. In what house did Yap Puan Niu and Sy Bi Bo and Sy Bi Git live?

A. In the big house of Sy Quui.

Q. What relation was Sy Quui and Sy Tiong Quui to the Vicente Romero Sy Quia whom you say died in Manila?

A. They are one and the same person.

Q. Where did you first see Sy Yoc Chay?

A. Where do you mean, here or in China?

Q. In China.

A. I saw his father having him in his arms, and he stated to me that he had a boy who died, and that he had taken this one and adopted him as his son.

Q. How long did you know this boy, Sy Yoc Chay, in China?

A. Up to the present time.

Q. Where is Sy Yoc Leng now?

A. Here in Manila.

Q. Is he in the court room?

A. Yes, sir.

Q. Will you kindly point him out?

A. There he is [indicating the plaintiff, Sy Yoc Leng].

Q. Who was Ba Lang?

A. Ba Lang is the wife of Sy Quia, and the mother of Gregorio, Pedro, and Juan Sy Quia.

Q. Was she a Chinese or Filipino woman?

A. She was a Filipina.

Sy Yoc Chay testified as follows:

Q. What is your name?

A. Sy Yoc Chay.

Q. How old are you?

A. Thirty-five years of age.

Q. Where were you born?

A. I am a native of Am Thau.

Q. Are you one of the plaintiffs in this action against Petronila Encarnacion and others?

- A. Yes, sir.  
Q. Where did your father and mother live?  
A. In China.  
Q. But where in China?  
A. They lived in the house of my grandfather.  
Q. What was your father's name?  
A. Sy Bi Bo.  
Q. Is your mother living or dead?  
A. My father died four years ago, and my mother is dead about eleven years ago.  
Q. When did your father die?  
A. When my father died I was 11 years of age; he died twenty-four years ago.  
Q. What is the name of your grandfather?  
A. Sy Quui.  
Q. Did your father have any brothers or sisters?  
A. He had a brother.  
Q. What was his name?  
A. Sy Bi Git.  
Q. Who is your grandmother?  
A. Yap Puan Niu.  
Q. Who is the husband of Yap Puan Niu?  
A. My grandfather, Sy Quui.  
Q. Where is Yap Puan Niu now?  
A. She is dead.  
Q. Where is Sy Quui now?  
A. My grandfather is dead also.

Sy Yoc Leng testified as follows:

- Q. What is your name?  
A. Sy Yoc Leng.  
Q. How old are you?  
A. Thirty-four years of age.  
Q. Are you one of the plaintiffs in this action?  
A. Yes, sir.  
Q. Where were you born?  
A. At Am Thau.  
Q. In what house in Am Thau were you born?  
A. In the house of Sy Quia.  
Q. Where is Am Thau?  
A. In the Province of Amoy, China.  
Q. How long did you live there?  
A. For fourteen years, and I then came to the Philippine Islands.  
Q. What is the name of your father?  
A. Si Bi iGt.  
Q. Where is your father now?  
A. He is dead.  
Q. When did he die?  
A. About twenty-six years ago.  
Q. Where was he buried?  
A. In China, near the pueblo of Am Thau.



Q. What is the name of your mother?

A. Yap Su Niu.

Q. Where is your mother now?

A. She is dead.

Q. Where did she die?

A. At Am Thau, in the house of Sy Quia.

Q. When did she die?

A. About twenty-two years ago.

1107 Q. What was the name of your father's father, that is, your grandfather?

A. In Manila he was called Vicente Romero Sy Quia, and in China he was called Sy Quian and sometimes he was also called Sy Tiong Quian.

Q. What was the name of your grandfather?

A. Yap Puan Niu.

Q. Was she known by any other name than Yap Puan Niu?

A. Yes, sir.

Q. What other name was she known by?

A. By the name of Chu Kun.

Q. What signification, if any, has that name Chu Kun?

A. The word Kun means that she was a very hard-working woman in the house, and therefore when she died they gave her that name of Chu Kun.

Q. What was the name of your grandfather's father?

A. Chan Bong Niu.

Q. Where did they live?

A. In the house of Sy Quia.

Q. In what village?

A. Am Thau.

Q. Who owned the house when you lived there?

A. It was divided into four parts; one for Sy Quia, one for Sy Ty, one for Sy Hien, and one for Sy Que Bieng.

Q. Where is your grandfather now?

A. He is dead.

Q. Where did he die?

A. Here in Manila.

Q. When did he die?

A. In 1894.

Q. Where was he buried?

A. In La Loma.

Q. How do you know that?

A. Because I went to the funeral.

Q. How many times have you seen the grave of your grandfather since he was buried at La Loma?

A. Very many times; I could not count the number.

Q. What were the occasions of your seeing the grave?

A. In the fiesta of All Saints' Day, Catholic as well as Chinese, I go there.

Sy Yoe Leng, being recalled, testified as follows:

Q. Have you received any part of the property left by Vicente Romero Sy Quia, deceased?

A. No.

Q. Do you know what property was left by Don Vicente Romero Sy Quia at the time of his death?

A. I only heard that there were many houses.

Under these facts the following questions are properly presented to the court:

First. Sy Quia having been lawfully married in 1847 in China, what was the legal effect of his second marriage in the Philippine Islands, without the first marriage having been annulled or dissolved, granting that each of said marriage relations was entered into in good faith on the part of the respective wives?

Second. What are the rights of the respective wives in the estate of the said Sy Quia, he having died intestate?

Third. What are the rights of the children of the respective marriages in the estate of the said Sy Quia, he having died intestate?

Bigamy and polygamy were both expressly prohibited under the Laws of the Indies, as well as by the rules of the Holy Roman Catholic Church. No rule was better established than that which made a second marriage null which was entered into before the dissolution or annulment of a preceding one. This was the rule under the civil as well as under the common law. By the common law, if a person having a husband or wife, married another person, such second marriage was absolutely null and void. (Dalrymple vs. Dalrymple (1811) 2 Hogg. Const., 54; 17 English Ruling Cases, 10; Second Kent's Commentaries, 79; First Bishop on Marriage and Divorce, 299; Pride vs. Earl of Bath, 1 Salt., 120; Fenton vs. Reed, 4 Johnson (N. Y.) 52; Martin vs. Martin, 22 Ala., 86; Gathings vs. Williams, 44 Am. Dec., and note 49; see also 5 Iredell's Law (N. C.), 487.)

Under the common law such marriages being void, the incidents which attend and follow a valid marriage were not acquired by the parties, nor by their descendants, such as dower, courtesy, legitimacy of children, etc. The rule of the common law allowing none of the incidents of a true marriage to follow another marriage entered into during the continuance of a first, was early found to work great injustice upon the innocent parties to the second marriage and especially upon the offspring of such second marriage. To remedy these hardships many statutes were passed both in England and in the different States of the United States. Among such States may be named Massachusetts, New York, Missouri, Maryland, California and Texas. (Glass vs. Glass, 114 Mass., 563; Brower vs. Brower, 1 Abbott's Appeals (N. Y.), 214; Spicer vs. Spicer, 16 Abbott's Practice, (new series) 114; Dyer vs. Brannock, 66 Mo., 391; Graham vs. Bennet, 2 Cal. 503; Smith vs. Smith, 1 Tex. 621; 46 Am. Dec., 121.)

Under the civil law this rule, making the second marriage during the existence of the first, absolutely null and void, was also

early modified. (Law 1, title 13, partida 4.) Civilians recognized the hardship resulting to children born of the second marriage and provided a remedy earlier than those who were subject to the common law. While law 1, title 13 of the fourth partida does not expressly make the second marriage valid, when one or both of the parties entered into the same in good faith, believing that there existed no impediment, yet this is the effect of the law, for the reason that it expressly makes the issue of such marriage legitimate, which, of course, could not be done except upon the theory that the marriage itself was legitimate and legal. This provision of the partidas does not, however, allow the legality of such marriage to exist nor the legitimacy of the children, except up to the time when the innocent spouse has knowledge that the marriage is illegal. From that time the marriage is regarded as an illegal marriage and children which are born after that time are illegitimate. Law 1, title 13, partida 4, is as follows:

By a legitimate child is meant he who is begotten according to law; and they are called legitimate who are born of a father and mother who are really married according to the ordinances of Holy Church. And although it should happen, that between those who were married openly and publicly in the Church, there should exist any impediment for which the marriage ought to be dissolved, yet the children they beget (*fiziessen*) before they know of such impediment, will be legitimate. And so it would be, as well where both of the spouses were ignorant of the existence of the impediment, as when one only of them knew it; for the ignorance of one of the spouses alone, would render the children legitimate. But if after they knew with certainty of the existence of such impediment, they should beget children, those that they afterwards have, will not be legitimate. Yet if during the existence of such impediment, and while both or one of them was ignorant of it, they should be accused before the judges of the Holy Church and before the impediment was proved or the sentence pronounced, they should have children, those that they beget (*fiziessen*) during the existence of the doubt, will all be legitimate. And so the children a man has by his concubine (*barragana*) will be legitimate, if he afterwards marry her. For although they are not legitimate when they are born, yet so great is the force of matrimony, that they become legitimate immediately their father and mother are married. And so it would be, if a man have a child by his slave, and he afterwards marry her. For marriage has so great an effect, that as soon as it is contracted, the mother becomes free, and the children legitimate.

The above-quoted provision of the Partidas is a very just and humane provision of law. It justly protects those who have innocently entered into the solemn relation of marriage, and their descendants. The good faith of the parties will be presumed until the contrary is shown or proved. (Art. 69, Civil Code (Spanish); *Las Leyes de Matrimonio*, sec. 96; *Gaines vs. Hennen*, 65 U. S., 553.)

There is nothing in the record which shows or tends to show that the respective wives had entered into the marriage relation knowing or believing that there existed any impediment whatever.

It must be concluded then that they acted in good faith, and for the purposes of participation in the estate of the husband, Sy Quia, the two marriages must be regarded as legitimate. (Law 1, title 13, partida 4; Eseriche, vol. 2, p. 110; White's New Recopilation, vol. 1, p. 64.)

A woman who is deceived by a man who represents himself as single, and who marries him, she and her children born while the deception lasted, under the Spanish law, are entitled to all the rights of a legitimate wife and children. These rights are provided for in the Civil Code.

See also the following decisions: *Dalrymple vs. Dalrymple* (1811) (2 Hagg. Const., 54, 55; 17 English Ruling Cases, Case No. 1); *Clendenning vs. Clendenning et al.* (March, 1825); (Martin's Reports (La.) vol. 7, 587); *Patton et al. vs. Cities of Philadelphia and New Orleans* (May, 1846) (1 La. An., 98); *Tratado del Contrato de Matrimonio* (1846) por Pothier (190-194); *Smith vs. Smith* (December, 1846) (1 Tex., 621); *Hubbell vs. Inkstein* (April, 1852) (7 La. An., 252); *Graham vs. Bennet* (October, 1852) (2 Cal., 503); *Lee vs. Smith* (1856) (18 Tex., 142); *Abston vs. Abston* (March, 1860) (15 La. An., 137); *Guinea vs. Hennen* (December, 1860) (65 U. S., 553).

See also—13 Peters, 404; 15 Peters, 9; 2 Howard, 619; 6 Howard, 550, 552; 15 Howard, 473; *Guinea vs. New Orleans* (December, 1867) (73 U. S., 642); *Succession of J. B. Navarro* (April, 1872) (24 La. An., 298); *Glass vs. Glass* (January, 1874) (114 Mass., 563); *Harrington vs. Bartfield et al.* (July, 1878) (30 La. An., 1297); *Succession of J. C. Taylor* (June, 1887) (39 La. An., 823); *Germanu vs. Tenneas* (December, 1887) (39 La. An., 1021); *Jer-man vs. Tenneas et al.* (May, 1892) (44 La. An., 620); *Green vs. Green* (December, 1894), (126 Mass., 17); *Barkley vs. Dumke* (99 Tex., 150, 153, 87 S. W. Rep., 1147); *Lawson vs. Lawson* (30 Tex., Civ. App., 43); *Allen vs. Allen* (105 S. W. Rep., 54); *Newland vs. Holland*, (45 Tex., 588); *Ft. Worth, etc., Railway Co. et al. vs. Robertson*, April 17, 190) (121 S. W. Rep., 202); 10 Columbia Law Review, 79.

The majority opinion cites section 1417 of the Civil Code in support of its conclusion that all of the property of Sy Quia belongs to the children of the second wife. Said section is as follows:

Art. 1417. The conjugal partnership expires on the dissolution of the marriage or when it is declared void.

The spouse who, by reason of his or her bad faith, causes the annulment, shall not receive any share of the property of the partnership.

The conjugal partnership shall also terminate in the cases mentioned in article 1433.

Practically all of the provisions of the Civil Code now in force in the Philippine Islands existed prior to the adoption of the Civil Code in what are known as "The Laws of the Indies," "Ley de Toro," "Novísima Recopilación," the "Partidas" and others. In other words, the Civil Code is nothing more or less, with a few modifications, than a codification of the separate Decrees and Royal

Acts applicable to the Philippine Islands. The Civil Code was not put in force in the Philippine Islands until on or about the month of December, 1889. Sv Quia was married to his first wife in 1847 and to his second wife in 1852 or 1853. If his second marriage was null and void, it was null and void in 1852 or 1853, and the laws governing the effect of such nullity in force at that time must govern, which were "The Laws of the Indies" above quoted. (Law 1, title 13, partida 4.) But even admitting that article 1417 is the law applicable in cases where the marriage is null, we contend that it was not the intention of the legislature to apply said provision to a case like the present. We do not believe that it was the intention of the wise legislators of the Spanish Government, where a man having a legal wife and children marries another woman and has children by such other woman, that the effect of the second marriage was to turn over to the second wife and children all of the property belonging to him, to the prejudice of the first wife and legitimate children. Such an interpretation is nauseating to every sense of justice and right. We do not believe that it was the intention of the Spanish Government to enforce said article (1417) to the prejudice of a prior legal wife and legitimate children. To give article 1417 the interpretation which the majority opinion contends for is to deprive the first wife and the first children, who have committed no wrong whatever, of their legitimate participation in the property of their husband and father.

We believe that article 1417 is not applicable to a case where a man or a woman, having a legitimate wife or husband and children, marries a second wife or husband. We do not believe that it was the intention of the legislature to punish the first wife and children in the way indicated by said article. We do not believe that it is the intention of said article to take away from the legitimate wife and children property to which they are legally entitled and give it to a second wife and children, in the manner contended for in the majority opinion. There can be no objection to the interpretation given to article 1417 when the marriage is declared null and void, by reason of the provisions of the Civil Code. (Arts. 101, 102, and 103.) But even the cases mentioned in these articles do not contemplate the existence of a former wife and legitimate children.

The Civil Code contains no provisions for the division of property in a case like the present. We, therefore, insist that the law which is applicable to the present case is that provision of the Partidas which we have quoted above (law 1, title 13, partida 4) and which is the provision of law followed by the Supreme Court of the United States and the other States above quoted. We believe that this provision affords an adequate, equitable, and just remedy, and one in consonance with sound reason and justice for a case like the present. Courts are frequently called upon to solve questions where there is no express provision of statutory law to assist them. We are fortunate, however, in the present complicated case, to find that the wise legislators of the Spanish Government, assisted always by the pure motives and high ideals of the Holy Roman Catholic Church,

have made an express provision governing the present case. (Law 1, title 13, partida 4.)

Suppose, for example, that Sy Quia had married his first wife in 1847 in one part of the Philippine Archipelago and as a result of said marriage there were born to them two children, and that after the birth of the two children Sy Quia had gone to some remote part of the Archipelago and had there married his second wife and had lived with her for a number of years and had had children and acquired property as he did in the present case. Would the courts, under these facts, have given all of the property to the second wife and children? So far as the present case is concerned, in our opinion, the mere fact that the first wife happened to live in China, instead of in the Philippine Islands, makes no difference in the solution of the problem. It is of no importance whatever whether he married his first wife in one part of the Archipelago or in a foreign country. (*Gaines vs. Hennen*, 65 U. S., 553; *Hubbell vs. Inkstein*, 7 La. An., 252; *Germann vs. Tenneas*, 39 La. An., 1021.)

With reference to the second question, "What are the rights of the respective wives in the estate of the said Sy Quia, he having died intestate?" and having held that for the purposes of participation in the estate of the husband, they are each regarded as legitimate, it would seem to be a just and humane conclusion to hold that each wife in the present case should succeed to that interest in the estate of the husband to which she would be entitled were she the only legitimate wife.

There is no evidence that the Chinese wife brought any property whatever to the marriage relation. The proof showed that the Filipino wife, Petronila Encarnacion, brought to the marriage relation about the same amount of property which the husband had at the time of their marriage.

Article 1392 of the Civil Code provides that—

By virtue of the conjugal partnership, the earnings or profits indiscriminately obtained by either of the spouses during the marriage, shall belong to the husband and wife, share and share alike, upon the dissolution of the marriage.

Article 1424 of the Civil Code provides that the amount of indebtedness against the respective spouses, chargeable to the conjugal partnership, shall first be deducted, and that then the remainder shall be divided.

1108 Article 1426 of the Civil Code provides that—

The net remainder of the partnership property shall be divided, share and share alike, between the husband and wife, or their respective heirs.

From these provisions of the Civil Code, which were in force at the time of the settlement of the estate of the said Sy Quia, it would follow, having held that each of the wives was legitimate, for the purposes of sharing in the conjugal partnership property, that each would be entitled to one-half of the net estate of the said Sy Quia. No decisions of the supreme court of Spain have been found bearing upon this question. Several decisions, however, have been found in



the decisions of the Supreme Court of the United States and of the supreme court of the State of Louisiana, as well as other States of the United States. The decisions of the Supreme Court of the United States and those of the State of Louisiana are especially applicable to the present case, for the reason that they deal with the Spanish codes.

The first case that we find is that of Clendenning vs. Clendenning et al. (March, 1825) (7 Martin's Reports (La., 587). In that case a man had married two women and had had children by each of them. The question presented to the court was what were the respective rights of the wives and their respective children. The court said:

The defendants contend, that notwithstanding that the plaintiffs' father had had a lawful wife, at the time of the second marriage, as the woman he last married was in good faith, at the time of the marriage, and ever since, at least till after the birth of the last child she had by him, her marriage has its civil effects, and she and her children, the present defendants, are entitled to all the advantages the law gives to a lawful wife and children. \* \* \* There seems to be no dispute on the question of law. The woman, who was deceived by a man, who represented himself as single, and his children begot while the deception lasted, are bona fide wife and children, and as such are entitled to all the rights of a legitimate wife and issue.

The next case which we find is that of Patton et al. vs. The Cities of Philadelphia and New Orleans (May, 1846) (1 La. An., 98). The facts, as related by the judge who wrote the opinion in the case, are as follows:

In the year 1790 Abraham Morehouse married Abigail Young in the State of New York and had two children by her. He subsequently came to the Spanish colony of Louisiana, gave it to be understood that he was a widower, and in September, 1799, by an act passed by the commandant of Fort Miro, in the District of Ouachita, acting as a notary public, agreed to take as his wife Eleonore Hook. The commandant states in the act that it is passed before him in conformity with a custom sanctioned by the Government on account of the want of spiritual assistance, and that the marriage is to be solemnized before the Church on the first opportunity.

At the time of the marriage Abraham Morehouse declared that he was the widower of Abigail Young.

During the trial at the cause it was insisted that the second marriage ceremony performed in Louisiana in September, 1799, was simply a contract per verba de futuro. The court held that the ceremony was followed by cohabitation and that a marriage per verba de futuro cum copulá had all the legal effects of a marriage per verba de presenti. The court held further that it was the intention of the parties to make a marriage per verba de presenti.

After the marriage with the second wife in 1799, Abraham Morehouse acquired large landed estates in the State of Louisiana. He died in 1813, his two wives being then alive. Many years after the death of Abraham Morehouse, one Stephen Girard acquired some of this land through the first wife, Abigail Young, and her sons, they representing themselves to be the only legitimate wife and



children, of the said Abraham Morehouse. Later the said Stephen Girard, who had acquired about 208,000 acres of land from the said Morehouse, by will, bequeathed to the city of New Orleans the undivided one-third of the said 208,000 acres of land and the remaining two-thirds to the city of Philadelphia.

The plaintiffs in the case of Patton et al. claimed to be the only lawful heirs and representatives of the said Abraham Morehouse and brought an action against the defendants (the Cities of Philadelphia and New Orleans) to get possession of the said property obtained through the said Stephen Girard. The essential facts being as we have just stated, the supreme court of Louisiana discussed the following questions:

First. Was the marriage of Abraham Morehouse to Eléonore Hook valid as a civil contract, under the laws in force in Louisiana at the time of its celebration, although that marriage was not afterwards solemnized before the Church?

Second. If the marriage was not valid, when did Eleonore Hook acquire such a knowledge of the previous marriage of her husband as to put an end to her good faith?

Third. While she continued in good faith, what right had each of the wives to the acquiescence and gains made by the husband?

It will be remembered that the commandant who solemnized the marriage ceremony between Morehouse and his second wife, stated to the parties that the marriage was to be solemnized before the Church on the first opportunity. It was contended on the part of the defendants that the marriage never having been solemnized before the Church, that there in fact never existed a marriage between Morehouse and his second wife. In other words, that it was a clandestine marriage (*clandestina matrimonia*). The defendants further argued that under and by virtue of the provisions of the Council of Trent, which had been adopted in Spain by a real cedula of Philip II, on the 12th day of August, 1564, the marriage could not be considered a valid marriage. The court held, however, that no proof had been presented showing that the provisions of the Council of Trent had ever been made applicable to the Territory of Louisiana. The court admitted, for the purpose of argument, that the Kings of Spain, intended that the adoption of the General Council of Trent should extend to all the countries which they might subsequently discover or acquire. It has never been understood that when the King of Spain had adopted any ecclesiastical orders or laws that such laws had the effect of annulling the civil laws in force at the time.

From the earliest periods of which we have any authentic history, there was a constant effort on the part of the Christian Church to bring about reforms in the method of entering into the marriage relation and to make it a most holy relation. Marriages by purchase, sale, and capture, concubinage, and polygamy were always abhorrent to the high ideals of the Christian Church. A study of the history of the growth of the marriage relation shows clearly that the Church believed that the marriage should be a holy sacrament, that the state in its civil functions was not capable of dealing with

such a holy relation, and therefore the Christian Church, from the earliest period of its history, made a strenuous effort to have the entering into the marriage relation controlled absolutely by church ordinances. As early as the year 325 at Nice a general council of 318 bishops was convened for the purpose of considering reform in the matter of marriages. Again in the year 787 another council was called at Nice, composed of 350 bishops for the same purpose. Again at the Council of Winchester in the year 1076 it was resolved: "That no man give his daughter or kinswoman in marriage without the priest's benediction," and declared that "otherwise the marriage shall not be deemed legitimate, but as fornication." Twenty-six years later (1102) at the Council of London, an attempt was made to put a check upon all clandestine contracts of marriage. This council resolved that "promises of marriage made between a man and woman without witnesses are declared to be null, if either party deny them."

In the year 1175 the resolutions of the preceding councils were reinforced by the canons of Archbishop Richard, taken from the decrees of Pope Ormidas of the year 514, ordering that "no faithful man, of what degree soever marry in private, but in public, by receiving the priest's benediction. If any priest be discovered to have married any in private, let him be suspended from his office for three years."

Later, in the year 1200, Archbishop Walter ordained that "no marriage be contracted without the banns thrice published in the church, nor between persons unknown, and no marriage not publicly solemnized in the face of the Church is to be allowed except by special authority of the bishop."

It was contended for many years that no marriage was valid unless it had been entered into by prescribed religious celebration. The efforts of the Church to control marriages to the end that it should be recognized as a holy sacrament and not a civil contract, were evidenced in each of the councils of Lateran (Letran). The last of the councils of Lateran (Letran) was held in the year 1215. This council resolved that all unblesed marriages were illegal. Notwithstanding the efforts of the Christian Church to make all marriages illegal which had not been celebrated under the rites of the Church, it was finally compelled to recognize, as valid, marriages which were celebrated without the intervention of priest.

The next general effort on the part of the Christian Church to control the question of marriage and to make the relation more holy and sacred, was by the Council of Trent. The Council of Trent was the nineteenth ecumenical council of the Holy Catholic Church, held at Trent, an imperial free city, under a prince bishop, in the Province of Tyrol. The council was called by Pope Paul III on November 1, 1542, and was finally opened December 13, 1545. This council held twenty-five sessions at various times, some of them at Bologna. It was prorogued several times. It was prorogued on the 28th of April, 1552. Pope Pius IV convoked the council again on the 18th of January, 1563. This council passed many resolutions for reform, among which the recommendations as to marriage were not the least. (See Alcubilla, *Diccionario de la Administración Española*, p. 4.)

The Council of Trent resolved "that henceforward all marriages not contracted in the presence of a priest and two or three witnesses shall be void." (See 3 Alcubilla, 63.)

It was the purpose of the Council of Trent to have its resolutions adopted and enforced in all Catholic communities. Philip II accepted as a law of the State by royal cedula dated in Madrid the 12th of July, 1564, the decrees of the Council of Trent. (See *Novísima Recopilación*, law 13, title I, Book I.)

W. Prescott states in his famous history of the reign of Philip II that it was his policy to enforce strict conformity to the Roman Catholic communion. That no marriage was valid unless celebrated according to the rites of, and in observance of the principles laid down by the canon law. These ecclesiastical laws continued to rule in Spain for over three centuries, but upon the dethronement of Isabella II (1868) the question arose whether the civil marriage ought not to be introduced. On the 18th day of June, 1870, a new law was passed (*La Ley Provisional de Matrimonio Civil*) enacting that a civil ceremony alone made a lawful contract and that the marriage ceremony should be performed by civil officials. But in 1875 when the conservative party was reinstated, the minor King Alfonso XII had ascended the throne, the regency, by a mere decreto (real decreto de 9 de Febrero, 1875) revived the religious marriage of the Council of Trent. It will be borne in mind, however, that this real decreto of the Queen Regent allowed the laws relating to civil marriage to remain in force. The said real decreto (9th of February, 1875) made certain exceptions. They, "de otra creencia que la verdadera y malos católicos" who remained, in consequence of their non-observance of religion regarding marriage "imposibilitados de santificarlo el sacramento." Later, on the 27th of February, 1875, another decree was issued by the Queen Regent, providing that no Roman Catholic could celebrate in Spain a valid marriage before a civil official. (See 25 *American Law Review*, p. 82.)

Philip the Second, by royal cedula dated Madrid, July 12, 1564, accepting as law of the State the decrees of the Council of Trent, extinguished completely the last vestiges of our laws of the forum, and he brought to the highest state of perfection the unification of civil and Catholic marriages, at the time when, in the rest of Europe, a new era was opened to the marital legislation of the middle ages through the reform that broke the bonds which up to then had united church and state. Wherever religious communions were established other than Catholic, it was no longer possible for the state not to recognize as legitimate many marriages which the Catholic Church had not blessed.

The resolutions of the Council of Trent were adopted as a part of the laws of the Kingdom of Spain. Article 75 of the Civil Code (Spanish) provides that "the requisites, forms, and solemnities for the celebration of canonical marriages shall be governed by the provisions of the Catholic Church, and of the Holy Council of Trent, accepted as laws of the kingdom." It will be noted, however, that the provisions of the Catholic Church and of the Holy Council of

Trent were only accepted with reference to canonical marriages. The Civil Code (Spanish) chapter 3, title 4, from articles 83 to 100, relating to civil marriages, provides for the capacity of the contracting parties and the celebration of the marriage. The Civil Code (Spanish) also provides for civil marriages in which there was no provision for the intervention of priest or of the Church.

The Civil Code was promulgated in Spain on the 30th of June, 1876. It will be remembered, however, that six years prior to the adoption of the Civil Code, to wit, on the 18th of June, 1870, there were promulgated "Las Leyes Provisionales del Matrimonio." In said law (June 18, 1870) there seems to have been no provision whatever for the celebration of canonical marriages, recognized by said law; neither were the forms prescribed by the Catholic Church and by the holy Council of Trent for the celebration of marriages expressly prohibited.

The exact date when the preparation of the *Siete Partidas* was commenced and completed is not expressly stated by any of the authors. It is certain, however, that El Rey Don Alfonso, El Sabio, ordered their preparation in the early part of the thirteenth century (1251) and that they were probably completed in the early part of the fourteenth century, (perhaps 1330). The provisions of law 1, title 13, partida 4, above quoted, relating to the effect of a second marriage entered into in good faith by one or both of the spouses, continued in force up to the time of the promulgation of "Las Leyes Provisionales del Matrimonio" in 1870, and were in force in *Las Indias* during all that period. The law of 1870 makes no express reference to the provisions of the *Partidas*. Said law, however, in the third section of chapter 3, contains the following provisions:

Art. 94. A null marriage, contracted in good faith by both spouses, shall produce all its civil effects while it lasts and the legitimacy of the children.

Art. 95. That contracted in good faith by one of them shall produce the effects mentioned in the preceding article only with respect to the innocent spouse and the children.

Art. 96. Good faith shall always be presumed, unless the contrary is proved.

It will be noted that the provisions of the above-quoted articles were substantially the same as those of the *Partidas* above quoted and were brought forward and now constitute in effect article 69 of the Spanish Civil Code, which was made effective in the Civil Code applicable to the Philippine Islands on the 8th of December, 1889. The above provisions of the Civil Code, however, remained in force in the Philippine Islands but a few days, for the reason that General Weyler on the 29th of December, 1889, issued the following order:

1109

GENERAL GOVERNMENT OF THE PHILIPPINES,

SECRETARY'S OFFICE BUREAU No. 2.

MANILA, December 29, 1889.

By direction of Her Majesty's Government, until further orders, titles 4 and 12 of the Civil Code, extended to these Islands by royal

decree of July 31 last, published in the Gazette of this city of the 17th of November last, are suspended in this Archipelago.

The proper authorities will issue the necessary orders to the end that in lieu of the two titles so suspended the former law may continue in force.

This order shall be communicated and published.

WEYLER.

There has been some discussion as to whether the titles 4 and 12 referred to by General Weyler refer to titles 4 and 12 of Book I, for the reason that some of the other books of the Civil Code also contain titles 4 and 12. It is now, however, well established that the titles referred to by General Weyler are titles 4 and 12 of Book I. (See *Benedicto vs. De la Rama*, 3 Phil. Rep., 34.)

The Law of 1870 was never promulgated in the Philippine Islands, except articles 44-78, inclusive. (See Royal Decree of April 13, 1883.)

It might be argued that the promulgation of the provisions of article 69 of the Civil Code in the Philippine Islands had the effect of annulling the provisions of the *Partidas* theretofore in force. But even admitting that to be true, by reference to the proclamation or decree of General Weyler, it will be found that he provided for the reestablishment of the laws relating to marriage, legitimacy, etc., which had hitherto been in force. It would seem to be clear, therefore, without referring to the provisions of the Civil Code, that at the time of the marriage of Sy Quia, law 1, title 13 of *partida* 4 was the law in force in the Philippine Islands, and that each of his wives, under the circumstances in the present case, should be considered legitimate, and the children born of each marriage, should be regarded as legitimate children, and that said wives should each be entitled to the benefit of the provisions of article 1392 of the Civil Code.

The ecclesiastical decrees had no effect in Spain until they had been adopted by the King. They were only binding upon the ecclesiastical bodies within the territory and upon the civil authorities when the Government of Spain expressly made them so; in other words, the mere adoption of an ecclesiastical order or law governing the Holy Catholic Church in Spanish territory was only binding as a civil law, when the same was expressly adopted by the King. Therefore, the mere fact that the marriage ceremony had not been solemnized in accordance with the provisions of the holy Council of Trent, did not make such marriage null.

In the case of *Patton vs. The Cities of Philadelphia and New Orleans*, the court held that the ceremony performed by the said commandante had all the legal effect of a marriage *per verba de praesenti*, and that the parties to the contract were recognized as husband and wife, and that it had all the civil effects of a marriage contract. The commandante, in the celebration of the marriage ceremony, declared that he had performed the marriage in conformity with a custom sanctioned by the Government. The Supreme Court of the United States, in the case of *Arredondo vs.*

United States (6 Peters, 691, 714), said that when the commandante says he had authority and exercised it, his authority will be presumed and that no one can question it but his superiors.

It was admitted that Eléonore Hook married Morehouse in good faith, believing that there was no existing impediment to such marriage and that all of the children were begotten or born before she had any knowledge of the fact that there existed a legal impediment to such marriage. The court held, in discussing the question of the rights of each of the wives, "that the laws of Spain recognized in such cases, two entire communities." As the wife, under those laws forfeits her share of the acquests and gains, when she is guilty of adultery, so the husband forfeits his share when he has two wives living, and each of the wives takes the undivided one-half to which the law would entitle her if she was alone."

Paz in his sixty-first Consulta, class 9, states the law as follows, in a case identically the same as the present:

Out of the acquests and gains, the debts must be paid, because what the parties owe during the marriage can not form a part of the acquests and gains, and belongs to the creditors. The balance, after paying the debts, must be divided between the two wives, without any portion of it going to the succession of the husband. The reason of this is that by the laws of this realm, one-half of the acquests or gains belongs to the first wife, although they have been made by the husband (book 5, New Recopilación, title 9, l. 1-6), and although the second law of this title requires the cohabitation of the wife with the husband in order that she be entitled to her share, yet as the marital cohabitation has not failed through her fault, but on the contrary through the fault of her husband, who abandoned her, she is not to lose her rights on account of the faults or misconduct of her husband. *Imputari non debet ei per quem non stat si non faciat quod per cum fuerat faciendum.* (De Reg. Jur. 6, reg. 41.)

To the second wife, the other one-half is due because by virtue of her good faith at the time of her marriage, she is reputed the lawful wife, for the same reason for which the law recognizes her issue as legitimate.

This doctrine is confirmed by Covarrubias en Epit. (p. 2, chap. 7, sec. 1, No. 7); Antonio Gomez (l. 50 de Toro, No. 77); and Molina (de Just. Tract. 2, Disp. 432), who all agree that it is the common opinion of the doctors of the law that a woman marrying in good faith, although the marriage may be null, is entitled to one-half the acquests and gains, from which it results that one-half goes to each of the wives, and that the husband, deceiving the second and doing a grievous wrong to the first, refuses unjustly to either, the share which belongs to her, and that he is bound to satisfy both out of everything he possesses, because the law favors those who are deceived against those deceiving them. *Cum deceptis et non decipientibus jura subveniunt.*

In taking from the father's succession those acquests and gains, no wrong is done the inheritance or legitimate portion of his chil-



dren, because this is a just debt, which he owes to his two wives, and the thing which the father owes is not inherited by his children, but taken by his creditors as their own. (Pas. Consultas Varias, pp. 483-484.)

The next case involving the same question is that of Hubbell vs. Inkstein (April 1852) (7 La. An., 252). The facts were substantially as follows:

Julius Hubbell, who had been legally married to one Sarah Hubbell in the State of New York, went to the State of Louisiana in 1820 and there, in 1826, married Mary Inkstein. In 1837, Julius Hubbell died, leaving a considerable amount of property in the State of Louisiana which he had acquired during his residence in the said State. This property was taken possession of by his second wife and was finally distributed between her and the children born of her marriage with Julius Hubbell. Later, Sarah Hubbell, the first wife, brought an action against Mary Inkstein et al. to recover the entire property of which the said Julius Hubbell had died seized. In deciding the case, Roat, justice, speaking for the court, said (p. 253):

Being of opinion that there is nothing in the record to show that Mary Inkstein ceased to be in good faith before the death of Julius Hubbell, or until long afterwards, we consider her entitled to the rights of a lawful wife. \* \* \* We are, therefore, of opinion that Sarah Hubbell and Mary Inkstein were each entitled to one-half of the acquets and gains at his death.

The next case which came before the courts of the United States in which the same question was discussed was that of Lee vs. Smith (1856) (18 Tex. 142). In that case one William Smith married Harriet Stone in the State of Missouri, in 1822, by whom he had three children before 1828. He then abandoned his wife, went to Texas, and under the name of John W. Smith, in 1831 or 1832, married, according to the laws of the State of Texas, one Maria Jesusa Delgado. The said Maria Delgado (the second wife) was totally ignorant of the first marriage. The husband died in 1845. During the marriage with the second wife a large estate was acquired. At the time of the marriage with the second wife neither had any property. Harriet Stone, the first wife, in or about the year 1833, obtained a divorce from her husband, the said William Smith. Later, the children of the first wife brought an action for the partition and distribution of the property of their father between them and the wife and children of the second marriage. The court granted the partition, and, in deciding the question, said (p. 145):

The second marriage of Smith with Maria Jesusa Delgado was not null and void in law, with reference either to the wife or the children of that marriage. In Spanish law, such a marriage is designated as putative, and the consort who enters into such matrimony ignorant that her partner has a wife or husband living, is in law not only innocent of a crime, but has all the rights, incidents, and privileges pertaining to a lawful marriage, and these are continued as



long as there is ignorance of the former or of an impediment to the second marriage.

In the case of *Abston et al. vs. Abston et al.* (March, 1830) (15 La. An., 137), the supreme court of Louisiana again reiterated the doctrine laid down in the cases of *Clendenning vs. Clendenning*, and *Patton vs. Philadelphia*, as well as in that of *Hubbell vs. Inkstein*.

In that case one John Abston married Olive Hart in the State of Alabama. John N. Abston, one of the parties to the suit, was a son born of that marriage. Later, the said John Abston abandoned his family in the State of Alabama, and without having obtained a divorce a vinculo matrimonii from his first wife, entered into a second marriage in the State of Mississippi with one Suzanne Bell. Later Suzanne Bell died; after the death of the second wife, Suzanne Bell, still being undivorced from his first wife, John Abston married one Rebecca Wright in the State of Mississippi, and of this third marriage there was born a child called Nancy Nix Abston. During the marriage relation between the said John Abston and Rebecca Wright, and while they were still living in the State of Mississippi, John Abston made a will bequeathing to his third wife, Rebecca Wright, the whole of his estate after the payment of his debts. After the making of the said will and before his death, John Abston, with his third wife and child removed to the State of Louisiana and there died. Later his said will was duly admitted to probate and executed in the State of Louisiana. (No dates are given as to these various incidents.)

Later the said Olive Abston and her son, John N. Abston, commenced an action in the courts of the State of Louisiana for the purpose of securing their portion of the property of the deceased John Abston. This action was brought against the third wife, Rebecca Wright, and her daughter the said Nancy Nix Abston. Under these facts, the supreme court of Louisiana decided:

First. That the decree of partition of the court ordering the said will of John Abston to be executed, did not amount to a judgment binding on those who were not parties to those proceedings, and that the court subsequently had a right to inquire into the validity of the title of the property of the said Rebecca Wright, under the said will.

Second. That the plaintiff, Olive Abston, was declared to be entitled to one-half of the community property in the succession of John Abston, deceased, and that the defendant, Rebecca Wright, be declared to be entitled to one-half of the said community property.

Third. That John N. Abston (the child of the first marriage) and Nancy Nix Abston (the child of the third marriage) be recognized as heirs at law to the separate property or estate of their deceased father, John Abston.

In the case of *Gaines vs. Hennen* (December, 1860) (65 U. S. 553), the Supreme Court of the United States discussed this same question at length. In order to understand the above case

of *Gaines vs. Hennen* fully it will be necessary to read the cases of *Ex parte Myra Clarke Whitney* (38 U. S., 403), *Gaines et al. vs. Relf et al.* (40 U. S., 8), *Gaines et al. vs. Relf et al.* (43 U. S., 619), *Patterson vs. Gaines* (47 U. S., 550), *Gaines vs. Relf et al.* (53 U. S., 472), *Gaines vs. New Orleans* (73 U. S., 642), *Davis vs. Gaines* (14 Otto, 386, 406), and *Gaines vs. De la Croix* (73 U. S., 719).

In the above case of *Gaines vs. Hennen*, the Supreme Court of the United States cited and approved the decisions of the supreme court of Louisiana in the cases of *Clendenning vs. Clendenning* (7 Martin's Reports, 587), *Patton vs. The Cities of Philadelphia and New Orleans* (1 La. An., 98), and *Abston vs. Abston* (15 La. An., 137).

In the case of the succession of J. B. Navarro (April, 1872) (24 La. An., 298), the facts appeared to be as follows:

Jean Baptiste Navarro was married in Italy in August, 1833, to one Marie Massucco. He abandoned his wife in Italy and came to the State of Louisiana in 1841 and in 1851 was there married to one Anastasie La France, while the first marriage in Italy was undissolved. The second wife, Anastasie La France died on or about the 12th day of January, 1869. Jean Baptiste Navarro died on the 21st day of January, 1869. Of the marriage of Jean Baptiste Navarro and Anastasie La France there was born a son called Paul Augustin Navarro, who survived them. The first wife, Marie Massucco, died on the 23d day of October, 1870. Jean Baptiste Navarro during this second marriage had accumulated property which inventoried \$20,759. An action was brought by the representatives or heirs of Marie Massucco to recover her interest in the estate of her husband (Jean Baptiste Navarro) claiming one-half of his estate as his legitimate widow. Paul Augustin Navarro (the issue of the second marriage) claimed the other one-half of the estate of his deceased father. The supreme court of Louisiana granted the petition of the respective heirs, citing and approving again the decisions of *Clendenning vs. Clendenning*, *Patton vs. The Cities of Philadelphia and New Orleans*, *Hubbell vs. Inkstein*, and *Abston vs. Abston*. (See also *Glass vs. Glass*, January, 1874, 114 Mass., 563.)

In the case of *Harrington vs. Barfield et al.* (July, 1878) (30 La. An., 1297) one Harrington in 1851 married Cecelia Barfield, while he had living in another State, from whom he was undivorced, another wife known as Matilda J. Kelley. Soon after the marriage of Harrington with Barfield, they left the State of Louisiana and went to the State of Arkansas, where a son was born to them. Cecelia, at the time of her marriage had a brother and sister living; her parents were also living at that time. Later her parents died and her brother and sister, Ira and Isabelle, divided the estate of their parents, believing that Cecelia was no longer living. Later, in 1875, the son born of the marriage of Harrington and Cecelia appeared in the locality where Ira and Isabelle lived and demanded his mother's share of his grandfather's estate. His mother had then been dead several years, having died in the State

of Arkansas. Ira and Isabelle claimed that he was a bastard and had no interest in the estate of their father. The court held that the marriage of Harrington and Cecelia, so far as Cecelia was concerned, was a lawful marriage and that the son born of said marriage was a legitimate son and was entitled to his mother's interest in his grandfather's estate.

(See also the succession of J. C. Taylor, June, 1887, 39 La. An., 823.)

The next case which came before the supreme court of Louisiana was the case of Jerman vs. Tenneas et al. (May, 1892). This case had been before the court before and is reported in La. An., 39, p. 1021. In that case the facts seem to be as follows:

One, Francis Jerman, was married to Josephine Attinger, in the village of Moos, Germany, on the 19th day of March, 1851.

Later and after a child had been born of this marriage the said Francis Jerman removed to the city of New Orleans and was there known as Francis Germaine. In the city of New Orleans the said Francis Jerman (Germaine) in the year 1855 married Mary Tenneas, of which marriage there were several children born. Francis Jerman (Germaine) died in the city of New Orleans in 1873. During the continuance of the marriage relation between Francis Jerman (Germaine) and Mary Tenneas, a considerable amount of property was acquired. There was some question raised with reference to whether the Francis Jerman who married Josephine Attinger in 1851 was the Francis Germaine who married Mary Tenneas in 1855. The lower court held and the supreme court affirmed it that these names referred to the same person. It was admitted that all of the property that the said Francis Jerman had at the time of his death had been acquired by him during the existence of the second marriage. In 1886 or 1887 Josephine Jerman (Attinger) the first wife brought an action against Mary Tenneas et al. to recover her share of the estate of the said Francis Jerman. The court allowed the claim of the plaintiff and said (44 La. An., 620, 627):

It [referring to the conjugal property] was acquired during the community régime, and, at the dissolution of the community, by the death of the husband, title to half vested in Josephine Attinger, regardless of the second marriage, whether contracted in good faith or not.

Here again the supreme court in Louisiana cited and approved the decisions in the cases of Clendenning vs. Clendenning, Patton vs. Philadelphia et al., Hubbell vs. Inkstein, and Abston vs. Abston.

This same doctrine is recognized by the statutes of several of the States of the United States. (See the Revised Statutes of New York (1882), sec. 1745, vol. 2, p. 2702; General Statutes of Massachusetts, chap. 107, secs. 4 and 30; see also Code of Napoleon, arts. 201, 202; Pothier, Contract du Mariage, vol. 3, pp. 172, 107; Touillier, vol. 1, p. 598; Marcadi Explication du Code, vol. 1, p. 520; Dalton's Dictionary, vol. 2, p. 372; Laws of the Indies, law 1, title 13, partida 4.)

This is also the doctrine of article 69 of the Civil Code, which

in effect is the same as that of law 1, title 13, partida 4. Said article 69 provides:

A marriage contracted in good faith produces civil effects, although it may be declared void. If good faith existed on the part of only one of the spouses, it shall produce civil effects only with regard to the said spouse and to the children. Good faith is presumed if the contrary does not appear.

(See also Manresa, 1 Código Civil, 309-312.)

The phrase in article 69 "civil effects" means that even though the marriage was null and void, if it was contracted in good faith, the parties who contracted the same in good faith shall have the same rights under the law, with reference to the community property, as if the marriage was absolutely legal. Article 1392 contains the provisions of the Civil Code relating to the rights of the spouses in the community property or conjugal partnership property.

Pothier, in his commentaries upon the contract of marriage under the Spanish law, discusses this question at length and says (pp. 190 and 193):

It is a much debated question among the doctors of law, whether or not this rule should allow an exception in the case where one of the parties is unaware that the other was married, at the time of having the carnal relations. Those who take the affirmative, base their argument on the chapter *Ex Tenore*, extr. *qui fili sint legit.*, according to which, as we shall see below, article 4, when one of the parties in good faith contracts a marriage that is null and void, believing it to be legitimate through ignorance of the existence of the impediment that makes it void, as when a woman marries a man whom she does not know is already married to another woman, the good faith of this second presumed spouse causes them to grant to this marriage, although null and void, all the effects of a legitimate marriage, and consequently, the titles and rights of legitimate children to those begotten therein.

There are marriages which, although null and void, produce civil effects by operation of law, in consideration of the good faith of the parties or of one of them who was ignorant of the impediment which nullified the marriage.

Our conclusion is, therefore, with reference to the second question:

(a) That the marriage of Sy Quia with Yap Buanju in China in 1847, was contracted in accordance with the forms prescribed by the Chinese laws, and was entered into in good faith.

(b) That the marriage of Sy Quia with Petronila Encarnacion in the Philippine Islands in 1853, was solemnized in accordance with the laws of the Philippine Islands and was, so far as Petronila Encarnacion was concerned, entered into in good faith; therefore, in accordance with the provisions of ley 1, title 13, partida 4, and article 1392 of the Civil Code, and in accordance with the jurisprudence established under the Spanish law, they are each entitled to one-half of the estate of the said Sy Quia.

With reference to the third question, to wit, "What are the rights of the children of the respective marriages in the estate of

the said Sy Quia, he having died intestate?" no provision of the Civil Code has been found which attempts to answer this question, under the facts presented in the present case. The question is a difficult one of solution. Paz, in his Consultas (sixty-first Consulta, class 9) takes the view that while the children of the two marriages are legitimate, their interest in the estate of the common father is confined to the interest which their respective mothers inherit. He takes the position that the claim of each of the wives against the estate of the husband is in the nature of a creditor, and says:

The balance, after paying the debts, must be divided between the two wives, without any portion of it going to the succession of the husband \* \* \*. In taking from the father's succession those acquets and gains, no wrong is done the inheritance or legitimate portion of his children, because this (the claims of the respective wives) is a just debt which he owes to his two wives, and the thing the father owes is not inherited by his children, but is taken by his creditors as their own. (Paz, Consultas Varias, pp. 483, 484.)

This doctrine seems to be humane and as well furnishes a solution of a most difficult and perplexing question.

The respective mothers are each entitled to one-half of the estate of the said Sy Quia and the children are entitled to the estate thus obtained by their respective mothers.

Marriages are governed by the *lex loci contractus*. If the marriage is valid where it was contracted and entered into, it is valid everywhere. (26 Cyc. (Encyclopedia of Law and Procedure), 829; Travers vs. Reinhardt, 205 U. S., 423; Hawaii vs. Si Shee, 12 Hawaii Reports, 329; Gaines vs. Hennen, 65 U. S., 553-631.)

We believe that the evidence in the present case is sufficient to show that the marriage of Sy Quia with Yap Buanju was in accordance with the laws and customs of China, and therefore was a valid marriage in China, and will be so considered in the Philippine Islands.

While it may or not be true that the marriage of Sy Quia with Petronila Encarnacion in the Philippine Islands made him or perhaps both of them criminally responsible for the crime of bigamy, yet the same was performed in accordance with the laws of the Philippine Islands and was entered into, at least by the said Petronila Encarnacion, in good faith, and there attached to said marriage all the civil rights, so far as the wife was concerned, which belong to marriage in general, in that she, so long as her good faith continued, succeeded to her share of the community property in accordance with article 1392 of the Civil Code, and the children born of this marriage were legitimate.

The right of succession to property by inheritance is determined generally:

(a) As to personal property, by the laws of the residence of the parties; and

(b) As to real property by the location of the property.

As to personal property the *lex domicilii* governs as a general rule; as to real property the *lex loci situs* controls. (Gaines vs.



Hennen, 65 U. S., 553, 597; Abston vs. Abston, 15 La. An., 137; 14 Cyc. (Enc. of Law and Procedure, 21 and cases.)

This is not the rule, however, with reference to the personal property of foreigners residing in the Philippine Islands. The Civil Code (art. 10 provides:

Personal property is subject to the laws of the nation of the owner thereof; real property to the laws of the country in which it is situated.

However, legal and testamentary successions, with regard to the order of succession, as well as to the amount of the successional rights and to the intrinsic validity of their provisions, shall be regulated by the laws of the nation of the person whose succession is in question, whatever may be the nature of the property and the country where it may be situate.

Biscayans, even though they reside in towns, shall continue subject, with regard to the property they possess in the level lands, to law 15, title 20, of the Fuero de Vizcaya.

This provision of the Civil Code has been the law of Spain, applicable to her foreign possessions, for a great many years. Substantially the same provision is found in law 15, title 14, of the third Partida. Substantially the same law exists in each of the South American States, Cuba and Porto Rico today, which were formerly under the jurisdiction of the Spanish Crown. Some South American States, however, have established the above-quoted general rule, to wit, that the law of inheritance of the place of the domicile of the owner of personal property is applicable to the inheritance of the same.

In the present case the father was a Chinaman, and there is nothing in the record which shows that he ever became a subject of the Crown of Spain. He never became a naturalized citizen of Spain, entitled to exercise the political rights granted under the Spanish Government in its colonial possessions. He lived in the Philippine Islands, so far as the record shows, permanently from 1852 or 1853 until the time of his death. His wife was a native of the Philippine Islands. The children living are now all adults. There is nothing in the record which shows or tends to show that they ever intended to leave the Philippine Islands. The fact that they have always lived here and made the Philippine Islands their home raises a strong presumption, at least, that they had adopted the Philippine Islands as the place of their permanent abode.

The question is properly raised under the provisions of the Civil Code, above quoted, in view of the fact that it was enacted many, many years ago, whether it was the intention of the Spanish Government to make the same applicable to foreigners who had taken up their permanent abode in the Spanish colonial possessions for the purpose of making such place their permanent home. Should not said article 10 be given an interpretation which would make a difference in the distribution of an inheritance between foreigners who are domiciled in the Philippine Islands with the definite intention to return to their native country some time in the future, and those foreigners who are domiciled in the Philippine Islands per-

manently, with the intention of remaining here so long as they live? For example, A, an American citizen, comes to the Philippine Islands with his wife and children for the purpose of making his permanent home here, without any intention whatever of removing elsewhere; he left the United States without the slightest intention of ever returning there for the purpose of residing. He engages in business in the Philippine Islands. He accumulates a large fortune. His children are educated here. He and his family have become an integral part of both the social and business relations of the country. He dies, leaving his wife and children, who have all reached their majorities. Another example: B, an American citizen, comes to the Philippine Islands with his wife and children, engages in business but has the intention to return to his native country at some definite or indefinite future time. He has no intention of becoming a permanent resident in the Philippine Islands. His purpose is to acquire a fortune, if possible, and return to his native heath for the purpose of enjoying the fruits of his labor with his family there. Both or each A and B, while they are residing in the Philippine Islands, with their domicile here, are entitled to all of the civil rights accorded to citizens under the Government. Neither, however, are entitled to exercise political rights under the Government. The question is, Should said article 10 apply equally to them? The first is a permanent resident, with a permanent domicile; the second a temporary resident, with a temporary domicile. Should the wife and children of A in the administration and distribution of his estate be compelled to invoke the provisions of the law of the State of the United States from which he came, in view of the fact that they have never had the slightest intention to return to the United States from the time they landed here? We do not believe hat it was the purpose of the code makers, at the time they drafted said article 10, to compel the descendants of permanent residents in the Philippine Islands, even though not permitted to exercise the political rights under the Government, to invoke the laws of a foreign country, one to which they owed no allegiance whatever. In the administration and distribution of their inheritance. We believe that article 10 should be given such an interpretation as would permit foreigners, who have permanently allied themselves with the interests of the country, to have their property administered after their death in accordance with the laws of the country which they have selected as their home. We are living in a progressive age and it is not believed that the present age should be governed by any ironclad interpretation of a statute of the centuries gone by which is contrary to the sense of the people of today. Statutes should be interpreted, so far as it is possible, to meet the conditions. While the courts are not permitted to amend the law, yet, nevertheless, they are permitted to give a law such an interpretation as will make it applicable to new conditions. Many examples might be given to show where this has been done. It is believed that the conditions in the Philippine Islands will justify the assertion that there are literally hundreds of families here who are not entitled to exercise the political rights of the Government,



who are strangers in fact under the law, but who have adopted the Philippine Islands as the place of their permanent abode. They have foresworn either in fact or by implication their allegiance to any other country or government. Should their descendants, in the face of these conditions, be compelled to resort to the laws of a foreign country, one of which they know nothing and for which they care less, for rules and regulations in the administration and distribution of their inheritance? It may possibly be that they left their native land for the very purpose of evading the very laws in question. We believe that it is perfectly justifiable under the provisions of article 10, and in view of the provisions of the Real Decreto of the 17th day of November, 1852, as well as that of the 4th of July, 1870, to give said article such an interpretation as will permit foreigners who have adopted the Philippine Islands as their permanent home and domicile to have their property, after their death, administered and distributed to their descendants in accordance with the laws of this country—the lands which they have adopted as their permanent home—and not in accordance with the laws of the country which they had permanently abandoned. No doubt many of the families to which reference is made above have for years not only been exercising the civil rights accorded them under the Spanish Government, but have also exercised political rights. We believe that under such circumstances the law of presumption should be applied after they have exercised civil and political rights for a number of years, and that they should be presumed to be citizens of the country which

1111 they have adopted as their permanent home. To sustain this conclusion we invoke the doctrine established by the Supreme Court of the United States in the case of *Boyd vs. Thayer* (143 U. S. 135). In that case, Mr. Boyd was born in the State of Ohio of foreign parents. His father had not been naturalized during his minority. Later he removed to the State of Nebraska and for a long period of years exercised both civil and political rights under the laws of the Territory and State of Nebraska. He was finally elected by the people of the State to the position of Governor. The question as to his rights to exercise this political function in the State was questioned by quo warranto proceedings. The case finally reached the Supreme Court of the United States. The Supreme Court of the United States, Chief Justice Fuller writing the opinion, adopted the doctrine of "presumption of naturalization." Mr. Chief Justice Fuller said (p. 180):

It is true that naturalization under the Acts of Congress known as the Naturalization Laws can only be completed before a court, and that the usual proof of naturalization is a copy of the record of the court. But it is equally true that where no record of naturalization can be produced, evidence that a person, having the requisite qualifications to become a citizen, did in fact and for a long time vote and hold office and exercise rights belonging to citizens, is sufficient to warrant a jury in inferring that he had been duly naturalized as a citizen. (*Boyd vs. Thayer*, 143 U. S., 135, 180; *Blight vs.*

Rochester, 7 Wheaton, 535, 546; Hogan vs. Kurtz, 94 U. S. 778, 779.)

The Civil Code of the Republic of Argentina, South America, in its articles 10 and 11, which contain substantially the same provisions of article 10 of the Civil Code of the Philippine Islands, has wisely recognized the difference between foreigners who are permanently residing in the Republic and foreigners who are residing temporarily there. Those foreigners who are permanently residing in that Republic are permitted to have their property administered and distributed after their death in accordance with the laws of the country, whether such property be real or personal, while those who are residing there temporarily are governed in the administration and distribution of their estates by the laws of their native country. (See Cañedo, vol. 1, p. 51.)

In the present case, Sy Quia resided in the Philippine Islands at the time of his death and all of the property in question in the present case is located in the Philippine Islands. Therefore the laws relating to the descent and distribution of both personal and real property in litigation, are the laws of the Philippine Islands. The contention of the appellants that the descent and distribution of the property should be governed by the laws of China is not tenable.

By the weight of authority the legitimacy of children depends upon the *lex fori*. We have seen that under the laws of Spain where a man has married a second wife without having the first marriage annulled, and where the second wife married in good faith, the children of such second marriage are legitimate. Of course, the children of the first marriage, which was entered into legally, are legitimate. We have also seen that the inheritance depends upon the *lex domicilii*. The rights of the legitimate children, therefore, depend upon the *lex fori* or the *lex domicilii*. (Irving vs. Ford (March, 1903) 183 Mass., 448; Minor's Conflict of Laws, sec. 10; Lingen vs. Lingen, 54 Ala., 410; Wharton's Conflict of Laws, sec. 246; Loring vs. Thorndike, 5 Allen, 257; Morris vs. Williams, 39 Ohio St., 554; Scott vs. Key, 11 La. An., 232; Blythe vs. Ayres, 96 Cal., 532; See also for general discussion of the question the case of Irving vs. Ford, 65 L. R. A., 177.)

It may be argued that inasmuch as the estate of the said Sy Quia had been settled and the property divided among the heirs in the Philippine Islands, that said estate can not be reopened for the purpose of considering the question of the right of property. The effect of the probate of the estate of the said Sy Quia has no effect whatever upon parties who have a right in the said estate and who were not made parties in said settlement. (Abston et al. vs. Abston et al., 15 La. An., 137; Sophie vs. Duplessis, 2 La. An., 724; Succession of Dupuy, 4 La. An., 570; Gaines vs. Hennen, 65 U. S., 553, 567.)

In the last case the Supreme Court of the United States approving of the decision in the case of Abston vs. Abston, supra, said:

The court declared that the decree of a probate court ordering a will to be executed, does not amount to a judgment binding on those who are not concerned in it, and when the will is offered as the title

in virtue of which property is claimed or withheld, that its validity may be enquired into.

A good deal of stress is laid upon the fact that Sy Quia was a Chinaman, and not a resident of the Philippine Islands, subject to the laws of Spain, and that, therefore, the descent of the property of his estate should be governed by the laws of China, where the first marriage took place. We are of the opinion and so hold that the question of his citizenship is of no importance. All of the property of his estate was in the Philippine Islands at the time of his death, both real and personal, and therefore should be governed in its descent in accordance with the laws in force here. In the absence of a special contract between the spouses to the contrary, their respective rights in the conjugal property will be governed by the *lex domicilii*, and not by the law of the place of the marriage. It may well be doubted whether the spouses could control the descent of their property even by contract when their children or descendants or ascendants were the only parties interested. The record does not disclose that Sy Quia, with either wife, had made a contract at the time of entering into the marriage relation which in any way affected the descent or distribution of his estate.

The defendants herein are in possession of their respective distributive shares of the estate of Sy Quia. They were given possession of it by order of the Court of First Instance of Manila, and it is to be presumed that they went into possession of the same in good faith. They are, therefore, not subject to pay interest or rent for the use of the same until after a judicial demand had been made by the persons who claimed a lawful possession. From that date, however, the defendants are liable to pay interest or rent upon that portion of the property which they possess which rightfully belongs to the plaintiffs.

From the judgment of the lower court both the plaintiffs and defendants appealed. Each presented a bill of exceptions, together with numerous assignments of error. Each of the appellants presented most interesting and readable briefs. The assignments of error of the respective parties have not been considered in detail. We believe, however, that the fundamental questions which were presented by the different bills of exceptions and the various assignments of error have been answered in the foregoing opinion.

Our conclusions are, therefore:

First. That each of the wives of the said Sy Quia was in law a legitimate wife of the said Sy Quia and the children born of the respective wives were legitimate children.

Second. That as a legitimate wife, each is entitled to one-half of the conjugal property of the estate of the said Sy Quia.

Third. That the children of each wife are entitled to a proportional amount of their respective mother's share in said estate.

Therefore the judgment of the lower court should be hereby modified and it should be ordered and adjudged:

(a) That a judgment be entered giving the descendants of each of the respective wives one-half of the estate of the said Sy Quia.

(b) That the said defendants each render an account of all the

property received by them respectively under the said judicial order of the Court of First Instance of the city of Manila in 1900.

(c) That the receiver heretofore appointed by the lower court take possession of the whole estate and administer the same until the lower court can make an order distributing the said estate in accordance herewith.

(d) That the plaintiffs recover of the defendants legal interest on one-half of all the moneys received by the defendants from the said estate and a reasonable rent for the use and occupation of one-half of all the property of the said estate, said interest and rent to begin to run from the 4th of December, 1905.

(e) That each be required to pay one-half the costs.

Judgment reversed.

1112 Thereafter and on the 30th day of March, 1910, counsel for plaintiffs filed a motion for a rehearing, which was subsequently denied by the court on the 18th day of July, 1910.

Thereafter and on the 19th day of July, 1910, final judgment was entered in the Supreme Court in the above-entitled cause as follows:

(Title of Court and Cause Omitted.)

"The Court having regularly acquired jurisdiction for the trial of the above-entitled cause submitted by both parties for decision, after consideration thereof by the Court upon the record, its decision and order for judgment having been filed on the 19th day of March, A. D., nineteen hundred and ten.

"By virtue thereof it is hereby adjudged and decreed that the judgment of the Court of First Instance of Manila, dated the 26 day of February, nineteen hundred and eight, and from which the above-entitled appeal was taken, be and the same is hereby, reversed, and the defendants are acquitted of the complaint filed in this case, without special ruling as to the costs of both instances; it is further ordered that the bond given by the receiver, Gregorio Sy Quia, be cancelled, and the motion for the appointment of a new receiver is hereby denied.

"It is further ordered that \* \* \* recover from \* \* \* the sum of P \* \* \*, as costs."

"[SEAL.]"

(Signed)

"J. E. BLANCO,

*"Clerk of the Supreme Court  
of the Philippine Islands."*

1113 Thereafter and on the 23rd day of July, 1910, counsel for plaintiffs duly excepted to the decision of the court denying their motion for a new trial.

Thereafter and on the 30th day of July, 1910, counsel for plaintiffs filed the following petition for an appeal and a writ of error to the Supreme Court of the United States:

1114 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G., No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU and C. W. O'BRIEN,  
as Guardian for SIEN HAN, Plaintiffs and Appellants,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

[Stamped:] Clerk's Office Supreme Court of the Philippines.  
Filed Jul-30, 1910. P. M.

*Petition for an Appeal to the Supreme Court of the United States.*

To the Honorable Chief Justice of the Supreme Court of the Philippine Islands, or any Associate Justice of said Court:

The petition of Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu, and C. W. O'Brien, as guardian for Sien Han, respectfully shows that on the 19 day of July, 1910, the Supreme Court of the Philippine Islands rendered a final decree against your petitioners in a certain cause wherein Petronila Encarnacion, Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia and Generoso Mendoza Sy Quia were the defendants and your petitioners were the plaintiffs, wherein your petitioners prayed for a discovery and an accounting by said defendants and each of them to your said petitioners of all the real and personal property included in the estate of one Vicente Romero Sy Quia, as set forth in your petitioner's complaint; furthermore that a receiver be appointed and that the said real and personal property belonging to the said estate be adjudged and

1115 decreed to the plaintiffs as the only surviving heirs of the said Vicente Romero Sy Quia; that a decree was rendered in the Court of First Instance for the city of Manila, Philippine Islands, awarding to your said petitioners a portion of the said estate; that the said decree was reversed by a majority decision of the Supreme Court of the Philippine Islands, with a dissenting opinion by Justice Johnson, as will appear by reference to the record and proceedings in said cause, and that the said Supreme Court is the highest court of the said Philippine Islands in which a decision in said cause can be had.

And your said petitioners, conceiving themselves aggrieved by the said decree of the Supreme Court of the Philippine Islands, made and entered on the 19 day of July, 1910, in the above entitled cause, as hereinbefore alleged, do hereby appeal from said order and decree to the Supreme Court of the United States under Section 10 of the Act of Congress of July 1, 1902, entitled the

"Philippine Bill", because the value of the property in controversy in this cause exceeds the sum of \$25,000.00, currency of the United States, as appears from the affidavit of Sy Joc Lieng, filed herewith and made a part hereof, and because of the reasons specified in the assignment of errors filed herewith, and your said petitioners pray that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States. Your petitioners furthermore pray that they may be allowed to perfect their appeal in the above entitled cause without paying costs or fees to the Clerk or other officers of this court because of the affidavit of your said petitioner Sy Joc Lieng, made and filed in this cause according to law and attached hereto and made a part hereof.

Dated this 22 day of July, 1910, at Manila, P. I.

O'BRIEN & DE WITT AND  
W. H. BISHOP,

*Attorneys for Petitioners.*

1116 The foregoing claim of appeal is allowed.

FLORENTINO TORRES,  
*Associate Justice of the Supreme Court  
of the Philippine Islands.*

1117 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G., No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs and Appellants,

versus

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

UNITED STATES OF AMERICA,  
*City of Manila, Philippine Islands, ss:*

Sy Joc Lieng, one of the plaintiffs in the above entitled cause, of  
lawful age, being duly sworn on his oath, says:

That he is one of the plaintiffs in the above entitled cause, and that  
the value of the controversy in said cause, exclusive of all costs, ex-  
ceeds the sum of \$25,000.00, United States currency.

SY JOC LIENG.

Subscribed and sworn to before me, this 27 day of July, 1910, at  
Manila, Philippine Islands. Affiant exhibited cedula No. F-31676,  
issued at Manila, P. I., the 17th day of March, 1910.

C. A. DE WITT,  
*Notary Public.*

My commission expires December 31, 1910.

(Copy.)



## 1118 ESTADOS UNIDOS DE AMÉRICA:

En la Corte Suprema de las Islas Filipinas.

R. G., No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs and Appellants,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

Comes now Sy Joc Lieng one of the plaintiffs in the above entitled case, and being duly sworn upon oath, deposes and says:

That he has full knowledge of the financial circumstances and abilities of all the plaintiffs in error in the above entitled action, and to his personal knowledge none of them has any money or property whereby they are able to pay the Clerk's fees and costs for certifying a transcript of the record in the above entitled action.

That he, the said Sy Joc Lieng, is absolutely without money or property and is actually working on a salary of P30.00 per month, with room and board, upon which he has to support his family.

SY JOC LIENG.

Subscribed and sworn to before me this 27 day of July, 1910, at Manila, P. I., on the 17th day of March, 1910.

C. A. DE WITT,  
Notary Public.

My commission expires December 31, 1910.

(Copy.)

## 1119 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G., No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs and Appellants,

vs.

PETRONILA ENCARNACIÓN, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

*Assignment of Errors.*

Now come the plaintiffs and appellants in the above entitled cause to wit:—Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu, and C. W. O'Brien, as Guardian for Sien Han, and respectfully submit that in the record,



proceedings, decision and final judgment of the Supreme Court of the Philippine Islands in the above entitled matter, there is manifest error in this, to wit:

1. The Supreme Court of the Philippine Islands erred in holding and deciding that the findings of fact of the trial Judge of the Court of First Instance of the city of Manila, Philippine Islands, was contrary to the weight and preponderance of the evidence as determined by Section 273 of the Code of Civil Procedure for the Philippine Islands.

2. The said court erred in finding that the only (competent) proof of the marriage of Sy Quia and Yap Pua Niu at Amtau, China, in 1847 was the matrimonial letters which passed between their families previous to the marriage and that the failure to produce these letters proved that the marriage never took place.

3. The said court erred in finding that Sy Quia was single because the ecclesiastical investigation and canonical certificates so 1120 stated.

4. The said court erred in failing to find that Sy Quia acknowledged Sy Yoc Lieng and Sy Yoc Chay as his legitimate grandchildren as well as did his Filipina wife, Patronila Encarnación.

5. The said court erred in finding that Sy Tiong Tay, a brother of Sy Quia, paid the expenses and supported Sy Yoc Lieng, Sy Yoc Chay and Yap Pua Niu, because they stopped in Manila at his house, or that the contrary might have been proven from the books of Sy Tiong Tay.

6. The court erred in finding that the silence of Yap Pua Niu during her life time was unnatural or suspicious.

7. The said court erred in finding and deciding that the second marriage would prejudice a prior legal wife and prior legitimate children so as to give all of the property acquired by the guilty spouse to the second wife and her children and to disinherit the first wife and her children.

8. The court erred in finding and concluding as follows:

First. "That it has not been duly established in this case that the Chinaman Sy Quia married in 1847 at Anthau, Amoy, China, the woman Yap Puan Niu, or that the plaintiffs are the descendants of the said Sy Quia, for the reason that the marriage of Sy By Bo, Sy By Guit and Sy Jui Niu, respectively, the affiliation and parentage of the latter and of Sy Chua Niu and Sian Han, and the adoption of Sy Yoc Chay have not been proven."

Second. "That, even assuming that Sy Quia actually married Yap Puan Niu in 1847, and that the second marriage with Petronila Encarnación in 1853 is therefore void, Sy Quia having contracted this second marriage in bad faith by concealing the fact that his former wife was still living, his half of the property of the conjugal partnership between him and his second wife, who married him in good faith, was forfeited by operation of law in favor of his said second wife, for although the law recognizes civil effects to a void marriage, it nevertheless deprives the party who married in bad faith of his share in the community property acquired during the existence of the marriage up to the time of its annulment."

Third. "That, as a consequence of the foregoing conclusion and under the same hypothesis, the plaintiffs, as the descendants of Sy Quia by his first marriage, have no right to claim Sy Quia's share in the conjugal property acquired during his second marriage with Petronila Encarnación for the reason that by the express provision of the law the half of the said conjugal property which would  
1121 have otherwise belonged to the husband was transmitted to Petronila Encarnación, together with the other half of the said property to which she was rightfully entitled under the law as the deceived wife."

Fourth. "That Vicente Romero Sy Quia, having become a regular domiciled denizen under the laws above cited by reason of his long residence in this country for more than fifty years and by reason of the further fact that he married a native woman, established himself in this city with a home of his own, acquired real property and engaged in business generally, most of the property left by him at the time of his death being real property, the questions raised by plaintiffs' petition must be determined in accordance with the laws of the Philippines to which Sy Quia submitted himself when he came to the Islands and secured a residence therein, and not in accordance with any other foreign or unknown law."

Fifth. "That, aside from the fact that it does not specifically appear from the record what are the Chinese laws applicable to the issues of this case, there is no proof of the existence of the Chinese laws referred to by the plaintiffs, nor is there anything to show that the books or pamphlets introduced by them in evidence contain any specific laws of the Celestial Empire."

9. The court erred in failing to find and decide, in accordance with Article 10 of the Civil Code in force in the Philippine Islands, which provides that legal and testamentary successions, with regard to the order of succession, as well as to the amount of the successional rights and to the intrinsic validity of their provisions, shall be regulated by the laws of the nation of the person whose succession is in question, whatever may be the nature of the property and the country where it may be situate, that the person in this case whose succession is in question was a subject of the Empire of China and that under the laws of China plaintiffs are entitled to the entire estate.

10. The said court erred in failing to find and decide that each wife was entitled to one-half of the property acquired during the second marriage, and that for the purposes of distribution of said property the wives were each regarded as legitimate in law and that the children of each marriage succeed to the interest which their respective mothers obtain from the common husband, together with the rent and profits, if the second marriage was entered into  
1122 in good faith on the part of the wife and if the law applicable to citizens of the Philippine Islands should be applied to the distribution of the said estate.

11. The said court erred in finding that the second wife Petronila Encarnación, and the persons holding under her, were entitled to any of the property belonging to the estate of Vicente Romero Sy Quia.

12. The said court erred in discharging the receiver.  
Wherefore, the said plaintiffs and appellants pray that said cause be reversed and judgment rendered in their favor, with costs.  
Manila, P. I., July 22, 1910.

O'BRIEN & DE WITT AND  
W. H. BISHOP,  
*Attorneys for Plaintiffs and Appellants.*

1123 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs and Appellants,

VS.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

*Citation.*

UNITED STATES OF AMERICA, ss:

The President of the United States to Gregorio Sy Quia, Juan Sy Quia, Pedro Sy Quia, and Pedro Sy Quia, as the Guardian of Generoso Mendoza Sy Quia, and Pedro Sy Quia, as the Administrator of the Estate of Petronila Encarnación, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the city of Washington, D. C., within one hundred and twenty (120) days from the date of this writ, pursuant to an appeal, duly allowed by the Supreme Court of the Philippine Islands, and filed in the Clerk's office of said Court on the 30th day of July, 1910, in a cause wherein Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu, and C. W. O'Brien, as guardian for Sien Han, are appellants, and you and each of you are appellees, to show cause, if any, why the decree rendered against the said appellants, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

1124 Witness the Honorable Chief Justice of the Supreme Court of the Philippine Islands, this 30th day of July, in the year of our Lord, one thousand nine hundred and ten.

FLORENTINO TORRES,  
*Associate Justice of the Supreme Court  
of the Philippine Islands.*

Service of a copy of the within citation is hereby admitted this 6th day of August, 1910.

ANTONIO M. OPISSO,  
*Attorney for Defendants and Appellees.*

## 1125 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs and Appellants,

VS.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia and Generoso Mendoza Sy Quia, Defendants and  
Appellees.

Know all men by these presents, that we, Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu and C. W. O'Brien, as guardian for Sien Han, as principals, and S. W. O'Brien and C. A. De Witt, as sureties, are held and firmly bound unto Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, and Pedro Sy Quia as the administrator of the estate of Petronila Encarnacion, in the sum of five Hundred Dollars, (\$500.00), United States currency, to be paid to the said obligees, their successors, representatives, and assigns, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 27th day of July, A. D. 1910.

Whereas, the above named plaintiffs in error have prosecuted a writ of error in the Supreme Court of the United States, to reverse the judgment rendered in the above entitled action by the Supreme Court of the Philippine Islands,

Now, therefore, the condition of this obligation is such that if the above named plaintiffs in error shall prosecute their writ of error to effect, and answer all costs and damages, if they shall fail to make good their plea, then this obligation shall be void: otherwise to remain in full force and effect.

1126 (Sgd.)

SY JOCLENG,

SY YOC CHAY,

By C. A. DE WITT,

*His Attorney.*

"

SY JUI NIU,

By C. A. DE WITT,

*His Attorney.*

"

SIEN HAN,

By C. A. DE WITT,

*His Attorney.*

"

S. W. O'BRIEN.

"

C. A. DE WITT.

Signed, sealed and delivered in the presence of:

(Sgd.) FRANCISCO G. CARAG.

"

ISIDRO SANTIAGO.

UNITED STATES OF AMERICA,

*City of Manila, Philippine Islands, ss:*

S. W. O'Brien and C. A. De Witt, the sureties who executed the foregoing bond, being first duly sworn upon oath, each for himself, says: That he is a resident and property holder in the Philippine Islands, that he is solvent for the amount mentioned in said obligation as penalty, apart of all his debts and obligations and of property subject to execution, and that he executed the foregoing bond as an act of his own free will and deed.

(Sgd.)

S. W. O'BRIEN.

C. A. DE WITT.

Subscribed and sworn to before me, this 27th day of July, 1910, by S. W. O'Brien and C. A. De Witt, who exhibited to me personal cedula No. F. 1100, issued at Manila, P. I., on the 4th day of January, 1910, and No. F. 1096, issued at Manila, P. I., on the 4th day of January, 1910, respectively.

(Sgd.)

JOS. N. WOLFSON,

*Notary Public.*

My commission expires December 31, 1910.

1127

*Writ of Error.*

Supreme Court of the Philippines. Clerk's Office. Filed Jul- 30, 1910: — M.

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia and Generoso Mendoza Sy Quia, Defendants in  
Error.

*Petition for a Writ of Error.*

To the Honorable Chief Justice of the Supreme Court of the Philippine Islands, or any Associate Justice of said Court:

The petition of Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu, and C. W. O'Brien, as guardian for Sien Han, respectfully shows that on the 19 day of July, 1910, the Supreme Court of the Philippine Islands rendered a final decree against your petitioners in a certain cause wherein Petronila Encarnación, Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia and Generoso Mendoza Sy Quia were the defendants and your petitioners were the plaintiffs, wherein your peti-

tioners prayed for a discovery and an accounting by said defendants and each of them to your said petitioners of all the real and personal property included in the estate of one Vicente Romero Sy Quia, as set forth in your petitioner's complaint; furthermore that a receiver be appointed and that the said real and personal property belonging to the said estate be adjudged and decreed to the plaintiffs as the only surviving heirs of the said Vicente Romero Sy Quia; that a decree was rendered in the Court of First Instance for the city of Manila, Philippine Islands, awarding to your said petitioners a portion of the said estate; that the said decree was reversed by a majority decision of the Supreme Court of the Philippine Islands, with a dissenting opinion by Justice Johnson, as will appear by reference to the record and proceedings in said cause, and that the said Supreme Court is the highest court of the said Philippine Islands in which a decision in said cause can be had.

And your petitioners claim the right to remove said decree to the Supreme Court of the United States by writ of error, under Section 709 of the Revised Statutes of the United States, and Section 10 of the Act of Congress for the administration of the affairs of Civil Government in the Philippine Islands, passed July 1, 1902, because the value in controversy involved in this case exceeds \$25,000.00, United States currency, as appears from the affidavit of Sy Joc Lieng, filed herewith and made a part hereof; and because of the errors committed by the said Court, as appears by the record of the proceedings of the said cause and the assignment of errors, which are herewith submitted; that the plaintiffs in error be allowed to perfect their appeal without filing the bond required by law or without costs and fees of the Clerk or other officers of this Court, because of the affidavit of your said petitioner Sy Joc Lieng, made and filed in this cause according to law and attached hereto and made a part hereof. Your petitioners respectfully state that they have this day filed herewith the assignment of errors committed by this court and intended to be urged by your petitioners and plaintiffs in error in the prosecution of this their suit in error.

Wherefore, your petitioners pray the allowance of a writ of error, returnable to the Supreme Court of the United States, at Washington, D. C., for the correction of the errors complained of and that a duly authenticated transcript of the record, proceedings and papers herein be sent to the United States Supreme Court.

Dated at Manila, P. I., July 27, 1910.

O'BRIEN & DE WITT &  
W. H. BISHOP,

*Attorneys for Petitioners.*

Let the writ of error in the above cause issue as prayed for in the petition.

Dated at Manila, P. I., July 30, 1910.

FLORENTINO TORRES,  
*Associate Justice of the Supreme Court  
of the Philippine Islands.*



## 1130 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

versus

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

UNITED STATES OF AMERICA,

*City of Manila, Philippine Islands, as:*

Sy Joc Lieng, one of the plaintiffs in the above entitled cause, of  
lawful age, being duly sworn on his oath, says:

That hi is one of the plaintiffs in the above entitled cause, and  
that the value of the controversy in said cause, exclusive of all costs,  
exceeds the sum of \$25,000.00, United States currency.

SY JOC LIENG.

Subscribed and sworn to before me, this 27 day of July, 1910, at  
Manila, Philippine Islands. Affiant exhibited cedula No. F-31676,  
issued at Manila, P. I., the 17th day of March, 1910.

C. A. DE WITT,  
*Notary Public.*

My commission expires December 31, 1910.

(Copy.)

## 1131 ESTADOS UNIDOS DE AMÉRICA:

En la Corte Suprema de las Islas Filipinas.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

Comes now Sy Joc Lieng one of the plaintiffs in error in the above  
entitled case, and being duly sworn upon oath, deposes and says:

That he has full knowledge of the financial circumstances and  
abilities of all the plaintiffs in error in the above entitled action, and



to his personal knowledge none of them has any money or property whereby they are able to pay the Clerk's fees and costs for certifying a transcript of the record in the above entitled action.

That he, the said Sy Joc Lieng, is absolutely without money or property and is actually working on a salary of P30.00 per month, with room and board, upon which he has to support his family.

SY JOC LIENG.

Subscribed and sworn to before me this 27 day of July, 1910, at Manila, P. I., on the 17th day of March, 1910.

C. A. DE WITT,  
*Notary Public.*

My commission expires December 31, 1910.

1132 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACIÓN, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

*Assignments of Error.*

Now come the plaintiffs in error, to wit:—Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu, and C. W. O'Brien, as guardian for Sien Han, and respectfully submit that in the record, proceedings, decision and final judgment of the Suprema Court of the Philippine Islands in the above entitled matter, there is manifest error in this, to wit:

1. The Supreme Court of the Philippine Islands erred in holding and deciding that the findings of facts of the trial Judge of the Court of First Instance of the City of Manila, Philippine Islands, was contrary to the weight and preponderance of the evidence as determined by Section 273 of the Code of Civil Procedure for the Philippine Islands.

2. The said court erred in finding that the only (competent) proof of the marriage of Sy Quia and Yap Pua Niu at Amtau, China in 1847 was the matrimonial letters which passed between their families previous to the marriage and that the failure to produce these letters proved that the marriage never took place.

3. The said court erred in finding that Sy Quia was single because the ecclesiastical investigation and canonical certifies so stated.

4. The said court erred in failing to find that Sy Quia acknowledged Sy Joc Lieng, and Sy Joc Chay as his legitimate grandchildren, as well as did his Filipina wife, Petronila Encarnación.

5. The said court erred in finding that Sy Tiong Tay, a brother of Sy Quia, paid the expenses and supported Sy Joc Lieng, Sy Joc Chay and Yap Pua Niu because they stopped in Manila at his house, or that the contrary might have been proven from the books of Sy Tiong Tay.

6. The court erred in finding that the silence of Yap Pua Niu during her life time was unnatural or suspicious.

7. The said court erred in finding and deciding that the second marriage would prejudice a prior legal wife and prior legitimate children so as to give all of the property acquired by the guilty spouse to the second wife and her children and to disinherit the first wife and her children.

8. The court erred in finding and concluding as follows:

First. "That it has not been duly established in this case that the Chinaman Sy Quia married in 1847 ay Amthau, Amoy, China, the woman Yap Puan Niu, or that the plaintiffs are the descendants of the said Sy Quia, for the reason that the marriage of Sy By Bo, Sy Bi Guit and Sy Jui Niu, respectively, the affiliation and parentage of the latter and of Sy Chua Niu and Siam Ham, and the adoption of Sy Yoc Chay have not been proven."

Second. "That, even assuming that Sy Quia actually married Yap Pua Niu in 1847, and that the second marriage with Petronila Encarnacion in 1853 is therefore void, Sy Quia having contracted this second marriage in bad faith by concealing the fact that his former wife was still living, his half of the property of the conjugal partnership between him and his second wife, who married him in good faith, was forfeited by operation of law in favor of his said second wife, for although the law recognizes civil effects to a void marriage, it nevertheless deprives the party who married in bad faith of his share in the community property acquired during the existence of the marriage up to the time of its annulment."

Third. "That, as a consequence of the foregoing conclusion and under the same hypothesis, the plaintiffs, as the descendants of Sy Quia by his first marriage, have no right to claim Sy Quia's share in the conjugal property acquired during his second marriage  
1134 with Petronila Encarnación for the reason that by the express provision of the *Lae* the half of the said conjugal property which would have otherwise belonged to the husband was transmitted to Petronila Encarnación, together with the other half of the said property to which she was rightfully entitled under the law as the deceived wife."

Fourth. "That Vicente Romero Sy Quia, having become a regular domiciled denizen under the laws above cited by reason of his long residence in this country for more than fifty years and by reason of the further fact that he married a native woman established himself in this city with a home of his own, acquired real property and engaged in business generally, most of the property left by him at the time of his death being real property the question raised by plaintiff's petition must be determined in accordance with the laws of Philippines to which Sy Quia submitted himself when he came to

the Islands and secured a residence therein, and not in accordance with any other foreign of unknown law?"

Fifth. "That, aside from the fact that it does not specifically appear from the record what are the Chinese laws applicable to the issues of this case, there is no proof of the existence of the Chinese laws referred to by the plaintiffs, nor is there anything to show that the books of pamphlets introduced by them in evidence contain any specific laws of the Celestial Empire."

9. The court erred in failing to find and decide, in accordance with Article 10 of the Civil Code in force in the Philippine Islands, which provides that legal and testamentary successions, with regard to the order of succession, as well — to the amount of the successional rights and to the intrinsic validity of their provisions, shall be regulated by the laws of the nation of the person whose succession is in question, whatever may be the nature of the property and the country where it may be situate, that the person in this case whose succession is in question was a subject of the Empire of China and that under the laws of China plaintiffs are entitled to the entire estate.

10. The said court erred in failing to find and decide that each wife was entitled to one-half of the property acquired during the second marriage, and that for the purposes of distribution of said property the wives were each regarded as legitimate in law and that the children of each marriage succeeded to the interest which their respective mothers obtain from the common husband, together with the rents and profits, if the second marriage was entered into in good faith on the part of the wife and if the law applicable to citizens of the Philippine Islands should be applied to the distribution of the said estate.

11. The said court erred in finding that the second wife Petronila Encarnacion, and the persons holding under her, were entitled to any of the property belonging to the estate of Vicente Romero Sy Quia.

12. The said court erred in discharging the receiver.

Wherefore, the said plaintiffs and appellants pray that the said cause be reversed and judgment rendered in their favor, with costs.  
Manila, P. I., July 27, 1910.

O'BRIEN & DE WITT &  
W. H. BISHOP,

*Attorneys for Plaintiffs and Appellants.*

1136

*Writ of Error.*

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

Writ of Error to the Supreme Court of the Philippine Islands.

UNITED STATES OF AMERICA, ss:

The President of the United States of America to the Honorable  
Judges of the Supreme Court of the Philippine Islands, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment or decree which is in the said Supreme Court of the Philippine Islands, before you or some of you, being the highest court of law or equity of the said Islands in which a decision could be had in the said suit between Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu and C. W. O'Brien, as guardian for Sien Han, plaintiffs, and Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Petronila Encarnación and Generoso Mendoza Sy Quia, defendants, wherein the title, rights and ownership of property valued at approximately one million pesos, Philippine currency, has been claimed and wherein the construction of certain laws and status exercised under said Islands are in question and the decision was in favor of the defendants, a manifest error has happened to the great damage of the said Sy Joc Lieng, Sy Joc Chay, Sy Jui Niu and C. W. O'Brien, as the guardian for Sien Han, as by their complaint appears,

1137 we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington within 120 days from the date hereof, in the said Supreme Court, to be then and there heard, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the Honorable ———, Chief Justice of the said Supreme Court, the 30th day of July, in the year of our Lord one thousand nine hundred and ten.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,  
*Clerk of the Supreme Court of the Philippine Islands.*

Allowed by

FLORENTINO TORRES,  
*Associate Justice of the Supreme Court  
of the Philippine Islands.*

1138 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOE LIENG, SY JOE CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

Know all men by these presents, that we, Sy Joe Lieng, Sy Joe Chay, Sy Jui Niu and C. W. O'Brien, as guardian for Sien Han, as principals, and S. W. O'Brien and C. A. De Witt, as sureties, are held and firmly bound unto Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, and Pedro Sy Quia as the administrator of the estate of Petronila Encarnacion, in the sum of five Hundred Dollars (\$500.00), United States currency, to be paid to the said obligees, their successors, representatives, and assigns, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Scaled with our scales and dated this 27th day of July, A. D. 1910.

Whereas, the above named plaintiffs in error have prosecuted a writ of error in the Supreme Court of the United States, to reverse the judgment rendered in the above entitled action by the Supreme Court of the Philippine Islands,

Now, therefore, the condition of this obligation is such that if the above named plaintiffs in error shall prosecute their writ of error to effect, and answer all costs and damages, if they shall fail to make

good their plea, then this obligation shall be void; otherwise to remain in full force and effect.

1139	(Sgd.)	SY JOC LIENG,
	"	SY JOC CHAY,
	"	By C. A. DE WITT,
		<i>His Attorney.</i>
	"	SY JUI NIU,
	"	By C. A. DE WITT,
		<i>His Attorney.</i>
	"	SIEN HAN,
	"	By C. A. DE WITT,
		<i>His Attorney.</i>
	"	S. W. O'BRIEN.
	"	C. A. DE WITT.

Signed, sealed and delivered in the presence of:

(Sgd.) FRANCISCO G. CARAG.

(Sgd.) ISIDRO SANTIAGO.

UNITED STATES OF AMERICA,

*City of Manila, Philippine Islands, ss:*

S. W. O'Brien and C. A. De Witt, the sureties who executed the foregoing bond, being first duly sworn upon oath, each for himself, says: That he is a resident and property holder in the Philippine Islands, that he is solvent for the amount mentioned in said obligation as penalty, apart of all his debts and obligations and of property subject to execution, and that he executed the foregoing bond as an act of his own free will and deed.

(Sgd.)

S. W. O'BRIEN.

"

C. A. DE WITT.

Subscribed and sworn to before me, this 27th day of July, 1910, by S. W. O'Brien and C. A. De Witt, who exhibited to me personal cedula No. F. 1100, issued at Manila, P. I., on the 4th day of January, 1910, and No. F. 1096, issued at Manila, P. I., on the 4th day of January, 1910, respectively.

(Sgd.)

JOS. N. WOLFSON,

*Notary Public.*

My commission expires December 31, 1910.

True Copy

J. E. BLANCO,

*Clerk Sup. Cort P. I.*

1140 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY LOC LIENG, SY JOC CHAY, SY JUI NIU, and C. W. O'BRIEN, as  
Guardian for Sien Han, Plaintiffs in Error,

vs.

PETRONILA ENCARNACION, GREGORIO SY QUIA, PEDRO SY QUIA,  
Juan Sy Quia, and Generoso Mendoza Sy Quia, Defendants in  
Error.

*Citation.*

UNITED STATES OF AMERICA, ss:

The President of the United States to Gregorio Sy Quia, Juan Sy Quia, Pedro Sy Quia, and Pedro Sy Quia, as the Guardian of Generoso Mendoza Sy Quia, and Pedro Sy Quia, as the Administrator of the Estate of Petronila Encarnacion, Greeting:

You are hereby cited and admonished to be an- appear at a Supreme Court of the United States at the city of Washington, D. C., within one hundred and twenty (120) days from the date of this writ, pursuant to a writ of error, duly allowed by the Supreme Court of the Philippine Islands, and filed in the Clerk's office of said Court on the 30th day of July 1910, in a cause wherein Sy Joc Lieng, Sy Joc Chay, Sy Jui Nui, and C. W. O'Brien, as guardian for Sien Han, are plaintiffs in error, and you are the defendants in error, to show cause, if any, why the judgment rendered against said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Chief Justice of the Supreme  
1141 Court of the Philippine Islands, this 30th day of July, in the  
year of our Lord, one thousand nine hundred and ten.

FLORENTINO TORRES,

*Associate Justice of the Supreme Court  
of the Philippine Islands.*

Service of a copy of the within citation is hereby admitted this  
6th day of August, 1910.

ANTONIO M. OPISSO,

*Attorney for Defendants and Appellees.*



1142 THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG and Others, Plaintiffs and Appellants,  
versus

PETRONILA ENCARNACION and Others, Defendants and Appellees.

Come now the defendants and appellees, Pedro Sy Quia, Juan Sy Quia, Gregorio Sy Quia, Generoso Mendoza Sy Quia, and Pedro Sy Quia as administrator of the estate of the deceased Petronila Encarnacion, through their lawful attorney, Antonio M. Opisso, and respectfully allege that having been notified of the appeal and writ of error that the plaintiffs and appellants in the above-entitled case have filed, and which is to be admitted before the Supreme Court of the United States; and

Whereas, for a better understanding by that high tribunal of the above-entitled case the mere transcript or certified copy of the record in this case would be insufficient, for the reason that said record contains some documents, tablets and writings in Chinese characters, made by the witnesses who testified both in China and in the Court of First Instance of Manila. Therefore the undersigned, as attorney for the defendants and appellees in the above-entitled case,

1143 respectfully asks this Honorable Supreme Court of the Philippine Islands that, for the better understanding of this case by the Supreme Court of the United States of America, this court shall order to be sent to said Supreme Court of the United States, together with the transcript and certified copy of the record in the above-entitled case, the following original documents, which are an important part in this case, to-wit, the depositions taken before the Hon. Rea Hanna, Vice-Consul of the United States of America at Amoy, China; second, the tablets offered in evidence by plaintiffs and to which the testimony of the Chinese witnesses whose depositions were taken before the Hon. Rea Hanna, Vice-Consul of the United States of America at Amoy, China, refers, together with the original translation made by the official interpreter of the United States Consulate at Amoy, China, of said tablets; third, the exhibits to which the testimony of the witness Sy Hian refers, said exhibits consisting of Chinese writing and characters, written by said witness while he was testifying in the Court of First Instance of the City of Manila.

Respectfully submitted,

(Sgd.)

ANTONIO M. OPISSO,

*Attorney for Defendants and Appellees.*

Manila, August 4, 1910.

*Order.*

Upon consideration of the foregoing petition by counsel for defendants and appellees, the Clerk is hereby ordered to transmit to the Supreme Court of the United States by registered mail, together with the transcript of the record of the above-entitled cause, the original documents and exhibits referred to therein, to-wit, the depositions taken before the Hon. Rea Hanna, Vice-Consul of the United States of America at Amoy, China, the tablets offered in evidence by plaintiffs, together with the original translation made by the official interpreter of the United States Consulate at Amoy, China, of said tablets, and the exhibits referred to in the testimony of the witness Sy Hian, in conformity with Section 4, Rule 8, of the Rules of the Supreme Court of the United States.

Manila, August 5, 1910.

(Sgd.)

FLORENTINO TORRES,

*Associate Justice of the Supreme Court of  
the Philippine Islands.*

1145 THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 4718.

SY JOC LIENG and Others, Plaintiffs and Appellants,  
versus

PETRONILA ENCARNACION and Others, Defendants and Appellees.

CITY OF MANILA,

*Philippine Islands, ss:*

I, J. E. Blanco, Clerk of the Supreme Court of the Philippine Islands, do hereby certify that the foregoing 1144 pages of typewritten and printed matter contain a full, complete and correct transcript and translation of the record and proceedings in the above-entitled case, and in obedience to the Writ of Error and Appeal therein allowed, I hereby transmit the same to the Supreme Court of the United States of America, together with the documents, papers and exhibits referred to in the order of the Hon. Florentino Torres, Associate Justice of this Court, dated August 5, 1910.

In witness whereof, I have hereunto set my hand and affixed the seal of the Supreme Court of the Philippine Islands this 18th day of October, 1910.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,

*Clerk of the Supreme Court of  
the Philippine Islands.*

1146 MORELAND, J., concurring:

The decision of this case will be very far reaching in its results. It is of the utmost importance to a great many families and to many large business interests in these Islands. It determines whether designing persons in China are to be permitted upon doubtful evidence to destroy or, at least, render utterly useless the protection which property ought to receive in the country where it is created.

A considerable part of the business of the Philippine Islands is conducted by Chinamen, natives of China. They are prominent participants in substantially every department of industry of the Islands. Many of them are married to native Filipino women and have children born of the union. The Filipino wife, generally speaking, acts in the utmost good faith in marrying her Chinese spouse and not infrequently materially assists in laying the foundations of their business prosperity. When the male child arrives at suitable age he enters the business of his father, and by industry, fidelity and frugality helps to build the fortune of his house. Their whole business life is lived here; their whole business capital invested here. The products and resources of this country are the subjects of their efforts; from them and them alone comes the wealth amassed. The Filipino wife has no suspicion that she has been deceived by her Chinese husband. The children have no thought that they are illegitimate. The bands were published, the marriage ceremony performed before the world. The children were born, baptized and received in life as the legitimate fruit of honest wedlock. They  
1147 have labored unsparingly in order that they might have the comforts of life and the joys of home. Just when their hopes are about to be realized and their dreams to become realities, they are told that the husband and father has a wife and children in China; that the Chinese marriage antedates that in the Philippines; that the Filipino wife is a concubine and her children in effect illegitimate; that the earnings of the family, the accumulations and savings of a lifetime of industry and frugality, if not entirely swept away, are to be divided among aliens to the land, among strangers to its productions.

What is the kind and character of evidence which, under such circumstances, public policy and public necessity ought to require to establish the prior marriage?

The facts in the case at bar have been fully set forth in the opinion of Mr. Justice Torres. It is unnecessary to present them again. They are far stronger in favor of the defence than those detailed in the previous general statement. In this case the Filipino wife, Petronila Encarnación, was the financier of the family. She was the one who brought to the marriage the capital which was the corner stone of the subsequent business structure. She was born of a business family who had accumulated wealth. On her marriage with Sy Quia she received a portion of that accumulation. He was at that time and for some years prior thereto had been an employé of a merchant, receiving a salary of P200 per year. He was young when he married. He was understood to be single. He alleged that fact

1148 in a public document and added to that allegation the solemnity of his oath. He was taught the tenets of the Catholic faith and entered the fold of its church,—a ceremony which required the better part of two years. The espousals were made, the bands published, and the marriage publicly solemnized. For more than half a century no one appeared to question its legality or attack its validity. Death had stilled the lips of the husband for more than eleven years, and the wife, enfeebled in mind and body, was on the very verge of the grave, so near in fact that she died before this action was tried, when the attack was made upon it. Even then the assault was not made by the alleged wife in China, nor by her children. They lived for nearly forty years wholly apart from the alleged husband and father, and died, mother and children, without having asserted, during all that time, their rights before the world. It remained for the second generation, the grandchildren of the Chinese wife, those whom Sy Hien brought from China to this country, to resuscitate and revive an alleged relationship which had lain dormant for more than fifty years.

Again, I ask, what kind of evidence must public policy, indeed, public necessity require before it will permit that the marriage be held established?

“Every intendment of the law leans to matrimony. When a marriage has been shown in evidence, whether regular or irregular, and whatever the form of the proofs, the law raises a strong presumption of its legality,—not only casting the burden of proof on the party objecting, but requiring him throughout, in every particular, to make plain, against the constant pressure of this presumption, the truth of law and fact that it is illegal and void. So that this issue cannot be tried like the ordinary ones, which are independent of this special presumption. And the strength of the presumption increases with the lapse of time through which the parties are cohabiting as husband and wife. It being for the highest good of the parties, of the children, and of the community, that all  
1149 intercourse between the sexes in form matrimonial should be such in fact, the law, when administered by enlightened judges, seizes upon all probabilities, and presses into its service all things else which can help it, in each particular case, to sustain the marriage, and repel the conclusion of unlawful commerce. This doctrine explains why, as between the two presumptions of innocence and life, the law prefers the one which makes the marriage good. It extends through the entire law of marriage, and casts its weight beneficially into the balance when other considerations are conflicting, or their effect is doubtful. Persons dwelling together in apparent matrimony are presumed, in the absence of any counter presumption or evidence special to the case, to be in fact married. The reason is that such is the common order of society, and that if the parties were not what they thus hold themselves out as being, they would be living in the constant violation of decency and of law. And because marriage is the highest public interest, this presumption is stronger and less easily overthrown than the other and ordinary presumptions of fact. If a ceremony of marriage appears in evidence,

it is presumed to have been rightly performed, and to have been preceded by all the needful preliminaries. If one of the parties had before been married, there is now a presumption of great strength that the partner in such former marriage is dead. Yet if such partner is shown to have been living shortly before this second marriage transpired, the presumption of life will be in conflict with that of the validity of the marriage, whereupon all the circumstances should be made to appear, and the fact be deduced from the entire evidence as operated upon by these rules. An absence of the standard period of seven years will not now be required to make the second marriage good, because the seven-years presumption of life is weakened or overcome by that of the validity of the second marriage." (Bishop, Marriage, Divorce and Separation, Vol. 1, sections 956, 958, 959.)

"The law always presumes against the commission of crime, and therefore, where a woman, twelve months after her first husband was last heard of, married a second husband, and had children by him, the sessions did right in presuming, *prima facie*, that the first husband was dead at the time of the second marriage; and that it was incumbent on the party objecting to the second marriage to give some proof that the first husband was then alive." (The King vs. The Inhabitants of Twining, 2 B. & Ald., 386.)

"As against the duly proved marriage of Patrick Larkin and Cephalia P. Bartlett, November 20th, 1860, it was not enough for the defendant to prove that Patrick was married seventeen years before to Mary O'Neill. Proof of such previous marriage did not 1150 cast the burden upon the plaintiff of proving, either that the former wife was dead, or, if living, that a legal divorce had been granted. One of the plaintiff's claims, in reply to the defendant's claim of title by prescription, was, that on the 20th of November, 1860, she was, and ever since had been, a married woman, the wife of said Patrick, who died December 31st, 1882. She proved the marriage by competent evidence. Being proved, the law raises a presumption in favor of its legality, upon which she had a right to rely until its illegality was proved. *Semper prasumitur pro matrimonio*. In the case at bar then, as it was presented to the court, there was no occasion for the plaintiff to prove the divorce, and it mattered not to the defendant that the Irish copy of marriage record was excluded, in as much as there was no offer on the part of the defendant to prove, in connection with proof of the first marriage and that the first wife was living at the date of the second marriage, that no divorce had ever dissolved her marriage with Patrick Larkin, all of which steps were necessary in order to overthrow the presumption of law in favor of the marriage of Patrick and Cephalia." (Erwin vs. English, 61 Conn., 509.)

"Where a person has departed from the State, and has not since been heard from, the presumption of the law is, that he is alive, until the lapse of five years, and after that time, that he is dead. But the presumption of life within the five years, is not sufficient to establish the illegality of a second marriage of such person's wife, within that time; for that would be to establish a crime by mere presumption of law; and especially ought the second marriage to be deemed legal,

when it is attacked after the lapse of twenty years, and during all that time the party has not been heard from." (Spears vs. Burton, 31 Miss., 547.)

"When a marriage has been solemnized according to the forms of law every presumption will be indulged in favor of its validity. The presumption is one in favor of innocence, as it will be presumed that a man will not commit the crime of bigamy by marrying a second time while his first wife is living. (Johnson vs. Johnson, 114 Ill., 611.) Absence of seven years without being heard from creates the presumption of death. But the presumption in favor of the validity of marriage is so strong, that a former husband or wife will be presumed to be dead after an absence of less than seven years. The ordinary presumption in favor of the continuance of human life is made to give way to the presumption in favor of the innocence of a second marriage. (Yates vs. Houston, 3 Tex., 433; Johnson vs. Johnson, supra.) In the present case, however, no presumption as to the death of Barbara Beatrice can be indulged in favor of 1151 the validity of the marriage with Margaret Hube, because the proof shows affirmatively that said Barbara was alive when said marriage took place, and for nine years thereafter. The two marriages of Nicholas Beatrice, Jr., and the existence of the first wife at the time of the second marriage, being established by proof, the presumption would arise in favor of a divorce from his first wife in order to sustain the second marriage. In view of this presumption the burden of proof rested upon the appellants, as the objecting parties, to show that there had been no divorce. The law is so positive in requiring a party, who asserts the illegality of a marriage, to take the burden of proving it, that such requirement is enforced even though it involves the proving of a negative. (Boulden vs. McIntyre, 119 Ind., 574.)" (Schmisseur vs. Beatrice, 147 Ill., 210; Dixon vs. People, 18 Mich., 84; Hull vs. Rawls, 27 Miss., 471; Harris vs. Harris, 8 Ill., App., 57; Senser vs. Bower, 1 Pa., 450; Cartwright vs. McGown, 121 Ill., 388.)

"In this case it is proven that the defendant, being a single woman and competent to make a marriage contract, by a marriage ceremony of legal form was married to Levi B. Davis in 1878; that the parties lived together as husband and wife until the death of Davis, in the year 1889, being recognized by the entire community to be husband and wife during that entire time. If presumptions are to be indulged in, is it not clear that these facts would demand the presumption to be that at the date of the death of Davis the defendant was his wife? To overcome the conclusion inevitable from these facts, the government asserts that during all this period Davis had a lawful wife living. It proves the bare fact that a marriage ceremony was had between Davis and Eliza Jane Callahan, and then asks the court, as the trier of the facts, to assume as a fact that the prior marriage was legal, without offering any evidence to show that the parties who entered into this ceremony were legally competent to contract in marriage. It may very well be that this prior marriage was legal and binding. It may be that it was not. The validity of the marriage between Davis and the defendant has never been denied by any



one, until the government chose to question it by bringing this suit. Under the peculiar facts of this case, the court, as the trier of the facts, is justified in demanding clear proof of the validity of the alleged prior marriage which is relied on to defeat the claim of the defendant to be the lawful widow of Levi B. Davis, and, in the judgment of the court, the evidence adduced does not prove the validity of the prior marriage, but leaves that question uncertain; and, as the burden of proof is upon the government, it must be held that it has failed to adduce sufficient evidence to justify the finding  
1152 that the defendant is not the lawful widow of Levi B. Davis, deceased." (Shiras, J., in U. S. vs. Green, 98 Fed., 63.)

"It is conceded by counsel for appellants that Orica Leach was at one time the lawfully wedded wife of T. H. Leach, but they insist that under the facts of this case the presumption arises that these parties were divorced. It appeared from the testimony that after the second marriage, which was in 1838, T. H. Leach and Orinda Leach lived in the town where Orica Leach was living, until T. H. Leach left for the West, and that Orica never made any claim that T. H. Leach was her husband. Orica was introduced to the second Mrs. Leach but nothing was said about her relations to T. H. Leach. Children were born as a result of this second marriage and they were recognized as legitimate by the first wife. Emma Leach, a child of the second marriage, was introduced to the first wife, and they frequently met thereafter. At the time of the second marriage, Leach claimed to have been divorced from his first wife; but there is no testimony in the record, other than presumption, as to a divorce having been granted. Neither is there any direct testimony tending to show that Orica Leach did not obtain a divorce, except the presumption that the marriage relation once shown is presumed to continue. We think these facts bring the case within the rule announced in the case of Blanchard vs. Lambert, 43 Iowa, 228. The law presumes that this second marriage was lawful, and not criminal, and that either Leach or his first wife had obtained a divorce before the second marriage. \* \* \* There is no testimony whatever to meet the presumption of divorce; no showing that the parties to the first marriage were not divorced. The second marriage having been solemnized according to the forms of law, every presumption should be indulged in favor of its validity. \* \* \* If it be said that this rule requires one to prove a negative, it may be said in answer that very frequently one has the burden of proving a negative. Where a negative is essential to the existence of a right, the party claiming such right has the burden of proving it. \* \* \* The facts in this case clearly bring it within the rule of the Blanchard Case, and, following that case, we must hold that the presumption of divorce has not been overcome." (Leach vs. Hall, 95 Iowa, 611.)

"The presumption of the death of the former husband or wife, in the case of second marriage, is only one of the many presumptions the law indulges in favor of the validity of the second marriage. As the authorities cited abundantly establish, every presumption is to be indulged as against the illegality of such a marriage. If the law



will presume the termination of the former marriage relation by the death of one of the former parties to it, why not indulge any other presumption which might legally terminate that relation? We think, where the facts are not such as to destroy such a presumption, that a dissolution of the first marriage, by divorce, will be presumed in favor of the validity of the second marriage." (*Boulden vs. McIntire*, 119 Ind., 574.)

"In an action to annul a marriage on the ground of the previous marriage of the woman to another husband, who has not been heard of for four and a half years at the time of the second marriage, in the absence of proof that the first husband was then living, or had not been divorced from the defendant, the presumption in favor of the innocence of the defendant from crime or wrong and of the legality of the second marriage will prevail over the presumption of continuance of life of the first husband; and the burden is cast upon the party asserting her guilt or immorality to prove that the first marriage was not ended by death or divorce before the second marriage." (*Hunter vs. Hunter*, 111 Cal., 261; *Klein vs. Laudman*, 29 Mo., 259; *Jones vs. Gilbert*, 135 Ill., 27; *Potter vs. Clapp*, 203 Ill., 592; *Kelly vs. Drew*, 94 Mass., 107.)

"Is the intermarriage of Burdick with the pauper, in 1836, rendered illegal and void from the fact of her intermarriage with Hyland in 1834, who, after a short cohabitation with her, absconded and has not since been heard of? To render the second marriage illegal and void, we must presume the continuance of the life of Hyland down to the time of the second marriage; and though, as a general principle, we are to presume the continuance of life for the space of seven years, still, when this presumption is brought in conflict with other presumptions in law, it may be made to yield to them. We are in all cases to presume against the commission of crime, and in favor of innocence; and the result will be, if we suffer this presumption to yield to the other, we, by presumption alone, pronounce the second marriage illegal and void, and the parties guilty of a heinous crime." (*Greensborough vs. Underhill* 12 Vt., 604.)

"The presumption in favor of matrimony is one of the strongest known to the law. \* \* \* The law presumes morality, and not immorality; marriage, and not concubinage; legitimacy, and not bastardy." (*Teter vs. Teter*, 101 Ind., 129.)

"A. and B. after cohabiting, as man and wife, separated in 1154 1781, and the wife went to her friends in 1783, when she removed out of the state, and was never heard of afterwards. Her husband, in 1781, married another woman, with whom he lived 38 years, and died leaving children. The absence of the first wife, for seven years, from 1783 to 1790, without having been heard of during that time, was sufficient to afford a presumption of her death; and although the second marriage of A. in 1781, was void, his first wife being then living; yet his continued cohabitation with his second wife for 27 years after 1790, and the reputation of their marriage, and the good character in society of the parties, during all that time, and until the death of A. afforded sufficient ground to presume an actual marriage between them after 1790, or the time of the

presumed death of the first wife, so as to entitle his second wife to dower in the lands which her husband was seized of during that period." (Jackson vs. Claw, 18 Johnson, 345.)

"Where husband and wife separated in 1829, and lived at places remote from each other, and the wife married again in 1835, and the husband in 1837, and the husband and last wife lived together as man and wife, until his death in 1853; in a controversy between a child by the first wife and the second wife and her children, respecting the estate, it was held that the second marriage of the husband must be held valid, without proof of a divorce between the husband and first wife, notwithstanding the second wife knew of the first marriage of her husband, and that his first wife was still living, but married to a second husband. \* \* \* There was no evidence that the first wife of the deceased had obtained a divorce prior to her second marriage. But the law in favor of innocence raises such presumption. And the defendant Susan, if she knew of the existence of the first wife, might have acted on this presumption, in contracting the marriage relation with Mr. Carroll. \* \* \* No attempt was made to impeach or destroy their marriage relation, and we may safely conclude, after this lapse of time and under the circumstances, that the defendant was the lawful wife of the deceased, and that there existed no legal impediment to their marriage." (Carroll vs. Carroll, 20 Tex., 732.)

"But even if it had been shown that the first wife was living at the time of the second marriage, we should be constrained to presume under the facts of this case that there was a divorce." (Nixon vs. Wichita Land and Cattle Co., 84 Tex., 408.)

"It is settled law in this State that when a marriage has been consummated in accordance with the forms of law it is presumed  
1155 that no legal impediments existed to the parties entering into such marriage, and the fact, if shown, that either or both of the parties have been previously married, and that such wife or husband of the first marriage is still living, does not destroy the prima facie legality of the last marriage. The presumption in such case is that the former marriage has been legally dissolved and the burden that it has not rests upon the party seeking to impeach the last marriage." (Wenning vs. Teeple, 114 Ind., 189.)

"The marriage with Desgrange having been proved, it was established as prima facie true, that Zulime was not the lawful wife of Clark, and the onus of proving that Desgrange had a former wife living when he married Zulime was imposed on the complainant; she was bound to prove the affirmative fact that Desgrange committed bigamy. \* \* \* On the admissibility of Desgrange's confession that he committed bigamy when he married Zulime, the question arises whether this confession (if made) could be given in evidence against the defendants. They do not claim under Desgrange; he was not interested in this controversy when it originated, and was competent to give evidence in this cause at any time, if living, to prove, or disprove, that a previous marriage took place, and was in full force, when he married Zulime. Phillips, in his *Treatise on Evidence* (Vol. 3, 287, Cowen's Ed.) lays down the rule

with accuracy, and cites authorities in its support, which rule is, that 'either of the married parties, provided they are not interested in the suit, will be competent to prove the marriage; and either of them will also be competent to disprove the supposed marriage; and they may give evidence as to the fact whether their child was born before or after marriage.' If Desgrange could overthrow his marriage with Zulime by confession, at one time, so he could at any other time; on this assumption, his confession of a previous marriage could have been admitted at any time before the trial, or at the trial, when he stood by, and might be examined as a witness. The great basis of human society throughout the civilized world is founded on marriages and legitimate offspring; and to hold that either of the parties could, by a mere declaration, establish the fact that a marriage was void, would be an alarming doctrine." (*Gaines vs. Relf*, 53 U. S., 533.)

Whether we fully accept the doctrine above laid down or not, we are nevertheless forced to the conclusion that the evidence  
1156 adduced by the plaintiffs relative to the marriage in China should be "clear, strong and convincing" before the court holds such marriage proved. Under the circumstances of this case every presumption should be in favor of sustaining the second marriage, even to the extent of holding that the marriage, if any, between Sy Quia and Yap Puan Niu had been dissolved by divorce when the second marriage occurred. In addition to the stern demands of public policy which imperatively require that families born and reared in this country who by industry and frugality have amassed a competency from the utilization of its resources and opportunities shall not be despoiled of the fruits of a lifetime except upon clear, strong and convincing proof, we have laid upon us no less imperatively the injunction that a marriage concededly solemnized in accordance with the forms of religion and of law shall not be annulled and destroyed for light and transient causes, but shall be presumed to be valid and binding upon participants and society until its nullity shall have been demonstrated by clear, strong and convincing proof.

In weighing such evidence we must bear in mind the following:

1. The marriage is alleged to have occurred at Am Thou, a small interior town of China, more than a thousand miles from the home of the defendants, among a people whose language was wholly unknown to the defendants. It was substantially impossible for them to obtain in China any evidence in opposition to that produced  
1157 by the plaintiffs. They were wholly at the mercy of the plaintiffs in this respect. The plaintiffs might allege what they chose, produce any class and quality of witness whatever to sustain their allegations, entirely free from discovery or denial. Testifying in a foreign tongue, through an interpreter, the witnesses were substantially exempt from effective cross-examination. Detailing customs and ceremonies of which the defendants were wholly ignorant, they could invent as they pleased and color as they would. Free from the possibility of contradiction or detection, they could fabricate and falsify with utter impunity. Dealing with an event which occurred more than half a century before, they

effectually and absolutely precluded the defendants, under all the conditions, from obtaining opposing testimony in the very place where the event occurred.

It seems to me that the court should take into consideration the enormous disadvantage under which the defendants labored in preparing a defence against these allegations and proofs of the plaintiffs. The conditions presented here are very like those involved when one party has under his control the evidence upon which his opponent must rely for the protection of his rights.

in the case of the Queen vs. Schooner S. G. Marshall, 1 Has. & War., 316, 324, which involved a seizure for violation of a British Shipping Act, the owner alleged that he was born in British territory of British subjects and that he was himself a loyal subject of Great Britain, although his father had taken the oath of allegiance to the United States. Concerning the testimony given by the owner

1158 on the question of his citizenship, Judge Peters said: "My experience has led me in cases like this, where the temptation to state what is untrue is great, and the means of detection and contradiction are difficult to be obtained, to assign no appreciable weight to such testimony."

In the case of Foster vs. Mansfield etc. R. R. Co., 146 U. S., 88, 99, the court said:

"The defence of want of knowledge on the part of one charged with laches is one easily made, easy to prove by his own oath, and hard to disprove; and hence the tendency of courts in recent years has been to hold the plaintiff to a rigid compliance with the law which demands, not only that he should have been ignorant of the fraud, but that he should have used reasonable diligence to have informed himself of the facts."

In the case of Young vs. Wolfe, 120 Fed. Rep., 956, Coxe, C. J., said, page 959:

"In approaching the defence of prior use the rule of evidence applicable thereto should constantly be borne in mind. The defence must be established beyond a reasonable doubt. The reason for the rule is obvious. It is so easy to fabricate or color testimony which lies almost wholly in the control of the person producing it, the infirmities of the human memory are so great and the liability to mistake so manifest, that the court is never justified in permitting such testimony to outweigh the presumption of validity which attaches to the patent unless it be of such a character as to carry a clear conviction and remove every reasonable doubt. This court has frequently had occasion to consider this defence and it is, therefore, unnecessary to repeat what has been often said heretofore." (Thayer vs. Hart, 20 Fed., 693; Mack vs. Spencer, 52 Fed., 819; Lalance Co. vs. Habermann Co., 53 Fed., 375; Singer Mfg. Co. vs. Schenck, 68 Fed., 191.)

In the case of The Manitou, 116 Fed., 60, 63, where the controversy turned upon the question whether or not a vessel came within the "Harter Act" so as to receive its benefits, and where much testimony was presented to show that every precaution was taken as required by that Act, the court said:

"But all testimony given under these conditions requires close

scrutiny and it is not necessarily to be accepted unless found  
 1159 to be inherently worthy of belief. Where an account of circumstances leading to a loss is entirely within the control of one side of a controversy, there is more of a burden upon such party than where the matter has been open to the other side for an ascertainment of the facts."

In numerous other cases courts of chancery have required that the evidence shall be "clear, strong and convincing" or have used an equivalent phrase, studiously avoiding the expression "preponderance of evidence. The following are some of the cases: To prove an intention to abandon an easement, *Hennessey vs. Murdock*, 137 N. Y. 317; to prove notice of an unrecorded deed in order to defeat the title of a subsequent purchaser, *Flagg vs. Mann*, 2 Sumn., 486; 9 Fed. Cases, #4847; to prove that a deed found in the possession of the grantor had nevertheless been delivered, *Vreeland vs. Vreeland*, 48 N. J. Eq., 56; to prove delivery of a gift not at any time found in the absolute possession of the donee, *Chambers vs. McGreery*, 106 Fed. Rep., 367; to prove that a bill of sale or a deed absolute on its face is a mortgage, 4 Am. and Eng. Encyc. of Law, 566, 567; *Dexter vs. Arnold*, 3 Sumn., 152; *Gannon vs. Moles*, 209 Ill., 180; *McAnulty vs. Seick*, 59 Ia., 586; *Dwyer Pine Land Co. vs. Whiteman*, 92 Minn., 55; to establish a parol trust, *Moore vs. Crawford*, 130 U. S., 122; *Emfinger vs. Emfinger*, 137 Ala., 337; *Cline vs. Cline*, 204 Ill., 130; *Brinkman vs. Sunken*, 174 Mo., 709; *Krauth vs. Thiele*, 45 N. J. Eq., 407; *Crouse vs. Frothingham*, 97 N. Y., 105; to establish a lost instrument by parol evidence of its contents in order to found a right thereon, *Renner vs. Columbia Bank*, 9 Wheat., 581; 1160 *McCarn vs. Rundall*, 111 Ia., 406; *Edwards vs. Noyes*, 65 N. Y., 125; *Van Horn vs. Munnell*, 145 Pa. St., 497; to establish the right to specific performance of parol contracts in general and especially of such contracts concerning an interest in land or oral contracts to devise property, *Dalzell vs. Company*, 149 U. S., 315; *Farley vs. Hill*, 150 U. S., 572; *Shipley vs. Fink*, 102 Md., 219; *Jones vs. Patrick*, 145 Fed. Rep., 440; *Chicago etc. R. R. Co. vs. Chipps*, 226 Ill., 584; *Gibbs vs. Whitwell*, 164 Mo., 387; to prove that the offspring of cohabitation apparently matrimonial is not legitimate, *Adger vs. Ackerman*, 115 Fed. Rep., 124; to set aside a government land patent on the ground of mistake, *Thallmann vs. Thomas*, 111 Fed. Rep., 277; to impeach an officer's return of service of process, *Loeb vs. Waller*, 110 Ala., 487; to falsify the statements in an officer's certificate of acknowledgment, *Willis vs. Baker*, 75 Ohio State, 291; *Albany County Bank vs. McCarty*, 149 N. Y., 71; to controvert a certificate of residence issued to a Chinaman under the provisions of the Chinese Exclusion Act, *Jew Sing vs. U. S.*, 97 Fed. Rep., 583; to establish a contract by a parent to pay for services of an adult child living with him, *Conway vs. Cooney*, 111 N. Y. App. Div., 864; to establish as against the representatives of a deceased wife a parol gift by her to her husband, *Wales vs. Newbould*, 9 Mich., 45, 89; to establish on behalf of a mortgagor that he did not receive the amount stated in his mortgage and that the latter was

usurious, *Morris vs. Taylor*, 22 N. J. Eq., 438; to annul a judgment or decree for fraud, *Wood vs. Davis*, 108 Fed. Rep., 130; to 1161 prove that a probate court's grant of administration is void for want of jurisdiction, *Boston, etc., R. R. Co. vs. Hurd*, 108 Fed. Rep., 116; to establish claims against estates of deceased persons, *Kearney vs. McKeon*, 85 N. Y., 136; *Belcher vs. Grey*, 16 Ga., 208; *Bodenheimer vs. Executors*, 35 La. An., 1005; *Moore on Facts*, Vol. 1, pp. 70, 71, 72, 75.

Without adopting to the full the rule of these cases, nor applying it with all its force and in all its extent to the case at bar, it nevertheless is clear to me that a rule of somewhat similar character ought to be applied here. As to result, it matters not whether we say that in all civil cases more than a preponderance of the proof is never required to establish a cause of action, and then permit the special circumstances to weigh in arriving at the preponderance of the proof, or whether we hold that the general rule of preponderance in civil cases is changed by exceptional or special conditions. The end is the same. In my judgment there are most assuredly conditions and circumstances in the case before us which require that the testimony presented by the plaintiffs shall be scrutinized and weighed with greater care and stronger suspicion than in the ordinary civil case.

The following should also be taken into consideration in weighing the evidence in this case:

2. It has been said in the discussion of this case that great consideration should be given to the fact that the trial court saw the witnesses during the trial, observed their manner of testifying, considered their attitudes and interests, and resolved the question 1162 of credibility accordingly. It should be noted, however, that all of the direct testimony relative to the marriage in China was taken by commission at Amoy, China, and that the trial court never saw any of the witnesses who testified in that connection. On the other hand, the marriage here between Sy Quia and Petronila Encarnación is admitted by all parties.

3. Of the thirteen witnesses who testified for the plaintiffs concerning the marriage in China, nine were members of the family or tribe of the plaintiffs. This is indicated by the prefix "Sy." One or two others not having such appellation were shown by direct evidence to be also related to the plaintiffs.

4. Some historians assert that there is always extreme difficulty in ascertaining the real facts from Chinese witnesses, even in Chinese to which they are accustomed.

C. A. R. courts, owing to the peculiar methods of procedure ^ (Williams, Middle Kingdom, Vol. 1, pp. 484, 500, 501, 504, 518, 785.) The evidence relating to the marriage was taken before an American Consul in Amoy through an interpreter. That difficulty was necessarily intensified.

5. "It is quite true, however, that the testimony of foreigners and of others who are brought from a distance to the place of trial requires to be scrutinized with more than common caution. The tribunal before which they speak knows little of them, and they care



little for it, and may have no respect for the laws of the country in which they are giving evidence. They have little to fear from having their falsehoods exposed, as there is little danger of conviction of perjury, and they lose nothing in reputation among their fellows. In our courts a witness who does not understand or who cannot speak our language, but who speaks through an interpreter, if at all, has the time and opportunity to prepare his answers to each question with care, and hence the force of a cross-examination is broken, if not destroyed." (U. S. vs. Lee Ruen, 118 Fed. Rep., 442.)

1163 6. It is very significant that death has swept away every member of the Chinese family of Sy Quia of that generation, leaving not one to speak in this case. Sy Quia himself, Yap Puan Niu, his alleged Chinese wife, Sy Bi Bo and Sy Bi Git, their two sons, and the wives of both, all were dead when this action was commenced, and had been dead for years. Petronila Encarnación, although alive when the action was brought, was so feeble in mind and body that she died before her testimony could be taken. The plaintiffs were thus free from possibility of contradiction in whatever they might assert concerning the dead spouses.

7. In the year 1894, when the death of Sy Quia occurred, the plaintiffs Sy Joc Lieng and Sy Yoc Chay, the only parties plaintiff who ever came to the Islands and the only persons who have appeared or taken part in the prosecution of the action, were twenty-one years old. They were men in stature and experience. There was nothing to prevent the immediate presentation of their claims against the property of Sy Quia. Yet they waited for more than eleven years before they instituted proceedings for the probation of their rights. During all that time they saw the property of Sy Quia in the hands of his Filipino wife and children, practically divided among them, they receiving the fruits therefrom and enjoying it as they would. They themselves were poor, were obliged to work to live and really needed the property far more than the Filipino children of Sy Quia. Yet they said nothing; did nothing to secure a declaration of their rights or a division of their property. It needs

no citation of authorities to substantiate the proposition that  
1164 the failure of the plaintiffs to enforce their rights for a period of eleven years raises a very strong presumption against their good faith and the validity of their claims.

8. The testimony of the plaintiffs Sy Joc Lieng and Sy Yoc Chay (the other two plaintiffs did not testify and took no personal part in the prosecution of the case), in so far as it is valuable to them, consists very largely in admissions alleged to have been made by Sy Quia and Petronila Encarnación recognizing that the plaintiffs were grandchildren of Sy Quia. Such evidence, if competent at all, should be scrutinized with the utmost care. (Code of Civil Procedure, Pars. 383, 277, 282, 298.) No citation of authority is required to support a proposition so elementary. The great bulk of the personal testimony of the plaintiffs is of this character. Usually these admissions were made to the plaintiffs when no one else was present.

9. The account book belonging to Sy Tay containing an entry



of a sum of money alleged to have been given by Petronila Encarnación in recognition of the fact that the plaintiffs were grandchildren of Sy Quia was incompetent, not having been properly proved.

10. A careful reading of the testimony of the plaintiffs relative to the alleged gifts of P4,000.00 and P2,000.00 of Petronila Encarnación in recognition of the paternity of Sy Quia discloses nothing which requires the construction placed upon such testimony by the plaintiffs.

11. Sy Hien, brother of Sy Quia, who seems to have been 1165 the main witness of the plaintiffs, is involved in so many contradictions and his appearance upon the stand during his last examination was so suspicious and unsatisfactory (he being in such a state that the court of its own motion ordered him from the witness stand) that he strengthened materially the defendants' case. His dressing a grandchild of Sy Quia and Petronila instead of Sy Quia and Yap Puan Niu in the nine suits is a circumstance of striking significance.

I have touched these latter matters very lightly for the reason that they are treated more at length in the opinion of Mr. Justice Torres.

Referring very cursorily to the evidence of the defence, Mr. Justice Torres having dealt with it more at length, these points should be noted:

1. That if the evidence given by the defendants' witnesses as to the whereabouts of Sy Quia from 1848 to 1853 is true, the marriage in China is absolutely impossible. This testimony shows conclusively that Sy Quia was in Vigan, Philippine Islands, during the very years when he is alleged to have been living in China and raising a family there. It seems to me that their testimony ought, at the very least, to offset completely the evidence of the marriage in China. This evidence was also taken, at least partly, by commission and the trial court saw only a few of the witnesses.

2. That the testimony offered by the plaintiffs tending to show (a) that Sy Quia visited as his wife Yap Puan Niu on one or two occasions when she was in Manila living at the house of Sy Tay; that he paid her passage to and from China and gave her money and presents; and (b) that the plaintiffs Sy Joc Lieng and Sy Yoc

Chay were brought here from China at the request of Sy 1166 Quia and their passage paid by him; and that they were lodged at the house of Sy Tay and educated at his (Sy Quia's) expense, is utterly destroyed by the testimony of the wife of Sy Tay, who says, in effect, that such testimony of plaintiffs is a complete and pure fabrication.

In the consideration of this case it must be remembered that the Supreme Court of the Philippine Islands is, under the holding of the Supreme Court of the United States, in some respects a trial court, and that it has the power to reverse or modify a judgment rendered by a court of first instance, if it finds that the judgment of that court is against the preponderance of the evidence. (Sec-

tion 497 of the Code of Civil Procedure, as amended by section 5 of Act 1123 and by section 1 of Act 1596.)

I cannot bring myself to believe that the evidence of the plaintiffs is satisfactory. Their success in this case would be so disastrous in its possibilities to such a considerable portion of the people and the business interests of the Islands that plaintiffs' case can be established only by clear, strong and convincing proofs. Having signally failed to produce such proofs, they cannot succeed.

True copy.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,

*Clerk Supreme Court, P. I.*

1167 [Endorsed:] File No. 22,417. Supreme Court U. S., October Term, 1910. Term No. 796. Sy Joc Lieng et al., Appellants & P. E., vs. Gregorio Sy Quia et al. Certified copy of concurring opinion by Moreland, J. Filed January 12, 1911. 190

Endorsed on cover: File No. 22,417. Philippine Islands, Supreme Court. Term No. 796. Sy Joc Lieng, Sy Joe Chay, Sy Jui Niu, and C. W. O'Brien, as guardian for Sien Han, appellants and plaintiffs in error, vs. Gregorio Sy Quia et al. Filed November 25th, 1910. File No. 22,417.



## INDEX.

### *Subject Index.*

	Page
Statement of facts.....	1-8
Assignment of errors.....	8-11
Argument .....	12-69
I. First, second, third, fourth, fifth, sixth, and first para- graph of eighth assignments of error.....	12
Right of appeal.....	13
Plaintiff's theory of the facts.....	15-29
Errors of fact committed by the Supreme Court of the Philippines.....	29-51
The "falsification" of the tablets.....	36
The passport.....	48
Regarding the testimony of Ana Quang Su.....	49
The testimony of Sy Hien.....	50
Sy Quila's statement that he was single....	51
Sy Quila's attitude toward his Chinese wife and grandchildren .....	52
The silence of Yap Puan Niu.....	53
The nine silk suits.....	55
Delay in bringing suit.....	56
The 5,000-peso marriage gift.....	57
II. The seventh and second, third, fourth, and fifth parts of the eighth and the ninth assignments of error....	58-69
The applicants are entitled to Sy Quila's half of the community property.....	60
III. The tenth assignment of error.....	67
IV. The eleventh and twelfth assignments of error.....	68-69
V. Conclusion .....	69

### *Cases, Statutes, and Authorities Cited.*

Abston vs. Abston, 15 La. Ann., 137.....	66
Allen vs. Allen, 105 S. W., 54.....	66
Barkley vs. Dunke, 99 Tex., 150.....	66
Chapman vs. Chapman, 16 Tex. Civ. Ap., 383.....	66
Chinese-American Calendar.....	37, 38, 41, 43, 46
Civil Code of Philippine Islands:	
Article 1417.....	62
Articles 67, 68, 69, 70, 71, 72.....	64

	Page
Clendenning vs. Clendenning, 7 Martin's Rep. (La.), 587.....	96
Connally vs. Woolritch, 11 Low. Can. Jur., 197.....	96
De la Rama vs. De la Rama, 201 U. S., 808; 50 L. Ed., 765....	13, 14
Diccionario Enciclopedico Hispano-Americano.....	35
Gaines vs. New Orleans, 78 U. S., 642; 18 L. Ed., 661.....	20
Harrington vs. Barfield, 80 La. Ann., 1297.....	96
Hubbell vs. Inkstejn, 7 La. Ann., 252.....	96
In the Succession of Navarro, 24 La. Ann., 298.....	96
In the Succession of Taylor, 39 La. Ann., 823.....	96
Jerman vs. Tennessee, 44 La. Ann., 620.....	96
Johnson vs. Johnson's Administrator, 60 Mo. St., 72.....	96
Lawson vs. Lawson, 30 Tex. Civ. Ap., 43.....	96
Lee vs. Smith, 18 Tex., 142.....	96
Manresa, Commentaries on Civil Code.....	62
Metropolitan Rwy. Co. vs. Moore, 121 U. S., 558; 30 L. Ed., 1022	15
Morgan vs. Morgan, 1 Tex. Civ. Ap., 315.....	96
Partida No. 7, Law 16, Title 17.....	61
Patton vs. Philadelphia, 1 La. Ann., 98.....	96
Pax, 61st Consulta.....	65
Philippines Commission, Act 1590.....	13
Philippines Commission, Act 497.....	14
Railway Co. vs. Robinson, 121 S. W., 202.....	96
Routh vs. Routh, 57 Tex., 580.....	96
Royal Decree, December 20, 1840.....	48
Scaevola, Commentaries on Civil Code.....	62
Smith vs. Smith, 45 La. Ann., 1140.....	96
Strong vs. Rep'de, 213 U. S., 419; 53 L. Ed., 853.....	13

IN THE  
SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

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No. 177.

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SY JOC LIENG, SY JOC CHAY, SY JUI NIU, AND  
C. W. O'BRIEN, GUARDIAN FOR SIEN HAN, APPEL-  
LANTS,

vs.

GREGORIO SY QUIA ET AL., APPELLEES.

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BRIEF FOR APPELLANTS.

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Statement of Facts.

On January 9, 1894, a Chinese merchant, resident of Manila, Philippine Islands, there known as Vicente Romero Sy Quia, died intestate in that city, leaving surviving him the widow, Petronila Encarnacion, his sons by marriage with her, Gregorio, Pedro, Juan; a daughter, Apolinaria, and grandchild, Generoso Mendoza, son of a deceased daughter Maria (R., 25, 26). The inscription upon his tombstone at La Loma cemetery, Manila, was as follows: "A. Evaristo.

In

D. Vicente Romero Sy Quia, native of Am Tao, in the province of Emuy, Empire of China. Died on the 9th day of January, 1894." There also appeared on it: "Ricardo. Honored in love and affection by his disconsolate wife, sons, grandsons, brothers, and nephews. Born in February, 1822" (R., 488).

On January 17, 1894, the above-named widow, children, and grandchildren, appearing before the judge of the Court of the First Instance, District of Quiapo, Manila, prayed that they might be decreed the legitimate heirs of Sy Quia, and they were so declared, "without prejudice to a third party with equal or better rights" (R., 19).

In August, 1900, the above-named heirs filed their petition, alleging that the attorneys appointed to appraise and distribute the property of Sy Quia had performed their task, and praying judicial approval in accordance with law, which was granted (R., 47-48). These proceedings show that Sy Quia and his wife Petronila brought nothing to the conjugal partnership (R., 51), and that, except 5,000 pesos inherited by the wife during her marriage (R., 51), all property left by Sy Quia was community property, amounting to 610,445.75 pesos (R., 79), the share of each spouse at the time of his death being one-half thereof. After deducting the usufructuary portion assigned to the widow, there was left for division among the heirs property of the value of 295,048.78, or 59,009.75 to each plus a profit of 22,691.12 pesos (R., 79-80).

On June 4, 1905, the plaintiffs and appellants (except Sien Han, whose mother, Sy Chua Niu, one of the plaintiffs below, died after the suit was instituted) brought an action against the defendants and Petronila Encarnacion, who died after suit was entered, setting out that they were the only surviving descendants and heirs-at-law of Sy Quia by his marriage in 1847 with a Chinese woman, Yap Puan Niu, in the village of Am Tao, Amoy, China, and praying: (a) That a discovery be obtained from the defendants be-



low of all the real and personal property left by Sy Quia; (b) that a detailed accounting be ordered; (c) that a receiver be appointed by the court to administer the whole of the estate during the action; (d) that the plaintiffs below be adjudged the sole surviving legitimate descendants and heirs-at-law of Sy Quia; (e) that it be adjudged that the defendants are without right, title, or interest to the real and personal property of Sy Quia's estate or to the rents and profits; (f) that the defendants be decreed to hold the estate and the rents and profits in trust for the benefit of plaintiffs below (R., 1).

The defendant Generoso Mendoza Sy Quia demurred (R., 8), but his demurrer was overruled (R., 20). He then filed an answer, as did the remaining defendants, denying the above-recited marriage in China, that the plaintiffs were Sy Quia's legitimate descendants, and alleged his marriage to Petronila Encarnacion in Vigan, June 9, 1853 (R., 24; see R., 10, 21). The plaintiffs to this filed an amended complaint and replication, denying the material allegations of the defendant's answer, denying the validity of the marriage at Vigan in 1853, and alleging conversion by the defendants of the property forming Sy Quia's estate on August 3, 1900, the date of the judicial order approving proceedings of distribution (R., 28).

The remaining defendants replied to the amended complaint, denying the allegations contained therein and ratifying the defenses already made (R., 29), and Generoso filed a like answer (R., 30). Petronila Encarnacion died and Pedro Sy Quia, as administrator, continued to defend the suit as her representative (R., 30).

The plaintiff Sy Jui Niu dying intestate, C. W. O'Brien was appointed special administrator and continued the prosecution on behalf of the estate (R., 32). Under order of court depositions were taken in China, some nine witnesses being examined, many of them in effect testifying that they were present at the marriage of Sy Quia and Yap Puan

Niu at Am Tao in 1847 and perfectly acquainted with them, and also establishing that there were two children of the marriage, Sy Bi Bo and Sy Bi Git, who married Ho Gim Niu and Yap Su Niu, and also establishing the relationship of the plaintiffs with them. (R., 108-306).

The depositions were also taken of a number of witnesses at Vigan, who testified to the effect that Sy Quia married Petronila Encarnacion there in June, 1853, having been baptized in 1852, and some of them alleging that he had been living, prior to such marriage and baptism, continuously at Vigan for such a length of time as precluded possibility of his marriage in China to Yap Puan Niu in 1847 and his sojourn for three or four years thereafter, as testified to by the Chinese witnesses at Am Tao (R., 312-346).

On the trial further evidence was had, the court rendering a decision on consideration of all of the testimony, finding as facts "undoubtedly established" and the law applicable thereto as follows:

"(1) That Sy Quia was born in China in 1822, a subject of the Chinese Empire.

"(2) That when at twelve years of age he came to the Philippines and was employed by his uncle until about twenty-five years of age.

"(3) That when about twenty-five years of age he returned to China and in the year 1847 was lawfully married to Yap Puan Niu under the laws and customs of China.

"(4) That he remained about four years in China and that two male children were born of that marriage, named Sy Bi Bo and Si Bi Git.

"(5) That the said Sy Bi Bo married Ho Gim Niu, and from this marriage two children were born, one male who died in infancy and the other a female named Sy Hui Niu, originally one of the plaintiffs in this case, who died, however, since its commencement, leaving Sien Han as plaintiff in her stead, represented by her guardian, C. W. O'Brien; that the plaintiff Sy Yoc Chay was adopted on the death of the male child of Sy Bi Bo in accordance with the laws and customs of China.

"(6) That Sy Bi Git married Yap Su Niu in 1871 and that their children are Sy Yoc Leng and Sy Chua Niu.

"(7) That Sy Quia returned to the Philippines about 1851, was baptized at Vigan, and married Petronila Encarnacion under the rites of the Catholic Church in 1853.

"(8) That Gregorio, Pedro, and Juan Sy Quia were born of this marriage, as were Apolinaria and Maria.

"(9) That Apolinaria died intestate and single in 1900, leaving Petronila Encarnacion, formerly defendant herein, as her sole heir.

"(10) That Maria died intestate before Sy Quia, leaving one male child, Generoso Mendoza, as her sole heir, who is one of the defendants herein.

"(11) That both Sy Quia and Petronila Encarnacion recognized the plaintiffs in error, Sy Yoc Chay and Sy Yoc Leng, as their grandchildren, and that Sy Quia recognized the other plaintiffs, Sy Chua Niu and Sy Jui Niu, as his grandchildren.

"(12) Sy Bi Bo died before Sy Quia, leaving his adopted son Sy Yoc Chay and his daughter Sy Jui Niu his sole heirs, and as such heirs to his father's estate, Sy Jui Niu having since died, leaving the child Sien Han as her sole heir, here one of the plaintiffs in error, represented by C. W. O'Brien as guardian.

"(13) That Sy Bi Git died before his father, Sy Quia, leaving as his sole heirs, and as such heirs to his father's estate, the plaintiffs herein, Sy Yoc Leng and Sy Chua Niu.

"(14) That Sy Quia's marriage in China was lawful and the issue of that marriage are legal heirs to his estate.

"(15) That the marriage between Sy Quia and Petronila Encarnacion was unlawful, but that they entered upon the life together as partners with probably equal capital, and that therefore Petronila Encarnacion was entitled to one-half of all the property of which Sy Quia died seized in the Philippine Islands.

"(16) That Sy Quia's unlawful marriage here could not deprive the children of his lawful marriage

in China of their right to his estate in the Philippines.

"(17) That the heirs to his estate, consisting of half the property of which he died seized, are the plaintiffs in error, and the defendants Gregorio Sy Quia, Pedro Sy Quia, Juan Sy Quia, Generoso Mendoza Sy Quia, and the heirs of Petronila Encarnacion as heirs of Sy Quia's daughter Apolinaria Sy Quia; and that the heirs of Petronila Encarnacion are entitled to the other half of the estate" (R., 609).

Judgment was accordingly entered declaring the plaintiffs and defendants Gregorio, Pedro, Juan, and Generoso Sy Quia and the heirs of Petronila Encarnacion as heirs of Apolinaria Sy Quia to be joint heirs to the estate of Vicente Romero Sy Quia, consisting of one half of the whole estate distributed under the judicial order heretofore mentioned, and that the heirs of Petronila Encarnacion, being the defendants herein, were entitled to the remaining half. The court further directed that the defendants disclose all property distributed to them under the judicial order above recited, and that each render an account of rents and profits received by them, and that a receiver be appointed (R., 608-614). Under this order a receiver was appointed, and in compliance with the direction for an accounting statements were filed by the defendants, showing their possessions, cash or real estate, aggregating several hundred thousand pesos (R., 387-392). To the judgment of the Court of First Instance the plaintiffs excepted on the ground generally that they should have been found to have been the sole heirs of Sy Quia and be allowed the costs in the action and an accounting for all of the profits of the property of which Sy Quia died seized, which exceptions were overruled and an appeal taken to the Supreme Court (R., 585-586). The defendants on various grounds asked for a new trial, which was overruled and exceptions noted (R., 616) and an appeal taken.

On March 19, 1910, by a majority vote, the findings of

fact of the Court of First Instance were reversed, it being found, as appears from the opinion of Mr. Justice Torres (R., 633-639), that the findings were against the preponderance of the evidence and that the marriage of Sy Quia to Yap Puan Niu had not been proven, and the plaintiffs had failed to prove their alleged relationship to Sy Quia; that, conceding the marriage of 1847 had taken place and that the plaintiffs are the legal descendants thereof, they are not entitled to any share whatever in Sy Quia's estate, because he had induced the marriage with Petronila Encarnacion by false representations as to his status and thereby had forfeited all right to what would otherwise have been his share in community property, and because of such forfeiture Petronila Encarnacion, having entered the marriage in good faith, must be deemed entitled to all the rights of the lawful wife under the Spanish law and, on his death, to all community property resulting from the marriage, and that, therefore, the defendants, the result of such marriage, were entitled to all their mother and grandmother could claim.

Mr. Justice Johnson dissented, sustaining the finding of facts made by the trial court, but differing with that court as to its conclusions of law based thereon, holding that the marriage and the relationship of the appellants to Sy Quia being proven, a subsequent unlawful marriage could not deprive his first wife and her descendants of the share in his estate to which she and they were entitled; that upon his death Yap Puan Niu, had she been then living, would have been entitled to one-half the community property, to which in turn, with its rents and profits, the appellants, claiming through her, were justly entitled (R., 689-723).

An appeal to this court was allowed (R., 725). The record contains an affidavit showing that the amount involved was in excess of \$25,000.00 (R., 725), the fact abundantly appearing, however, at many points in the record.

The appellants claim that they are the lawful descendants of the marriage of Sy Quia and Yap Puan Niu at



Am Tao, in the Province of Amoy, in 1847, and, under the Spanish laws in force in the Philippine Islands, they are entitled to the half of the community property of the marriage between Sy Quia and Petronila Encarnacion, to which Sy Quia was entitled at the time of his death, together with the rents and profits thereof.

It is the claim of the appellees that Sy Quia never married in Amoy or elsewhere before his marriage in 1853 at Vigan, and that consequently the relationship claimed by the appellants to him did not exist; that the appellees are the only lawful descendants of the Philippine marriage and as such entitled to the property assigned to them as his heirs and to its rents and profits.

#### **Assignment of Errors.**

1. The Supreme Court of the Philippine Islands erred in holding and deciding that the findings of fact of the trial judge of the Court of First Instance of the city of Manila, Philippine Islands, were contrary to the weight and preponderance of the evidence as determined by section 273 of the Code of Civil Procedure for the Philippine Islands.

2. The said court erred in finding that the only (competent) proof of the marriage of Sy Quia and Yap Puan Niu, at Am Tao, China, in 1847, was the matrimonial letters which passed between their families previous to the marriage, and that the failure to produce these letters proved that the marriage never took place.

3. The said court erred in finding that Sy Quia was single, because the ecclesiastical investigation and canonical certificate so stated.

4. The said court erred in failing to find that Sy Quia acknowledged Sy Yoc Leng and Sy Yoc Chay as his legitimate grandchildren as well as did his Philippine wife, Petronila Encarnacion.

5. The said court erred in finding that Sy Tiong Tay, a brother of Sy Quia, paid the expenses and supported Sy Yoc Leng, Sy Yoc Chay, and Yap Puan Niu, because they stopped in Manila at his house, or that the contrary might have been proven from the books of Sy Tiong Tay.
6. The court erred in finding that the silence of Yap Puan Niu during her lifetime was unnatural or suspicious.
7. The said court erred in finding and deciding that the second marriage would prejudice a prior legal wife and prior legitimate children so as to give all of the property acquired by the guilty spouse to the second wife and her children, and to disinherit the first wife and her children.
8. The court erred in deciding and concluding as follows:

"First. That it has not been duly established in this case that the Chinaman Sy Quia married in 1847 at Am Tao, Amoy, China, the woman Yap Puan Niu, or that the plaintiffs are the descendants of the said Sy Quia, for the reason that the marriage of Sy By Bo, Sy By Git, and Sy Jui Niu, respectively, the affiliation and parentage of the latter, and of Sy Chua Niu and Sian Han, and the adoption of Sy Yoc Chay have not been proven.

"Second. That even assuming that Sy Quia actually married Yap Puan Niu in 1847, and that the second marriage with Petronila Encarnacion in 1853, is, therefore, void, Sy Quia having contracted this second marriage in bad faith, by concealing the fact that his former wife was still living, his half of the property of the conjugal partnership between him and his second wife, who married him in good faith, was forfeited by operation of law in favor of his second wife, for although the law recognizes civil effects to a void marriage, it, nevertheless, deprives the party who married in bad faith of his share in the community property acquired during the ex-



istence of the marriage up to the time of its annulment.

"Third. That, as a consequence of the foregoing conclusion and under the same hypothesis, the plaintiffs, as the descendants of Sy Quia by his first marriage, have no right to claim Sy Quia's share in the conjugal property acquired during his second marriage with Petronila Encarnacion, for the reason that by the express provision of the law the half of the said conjugal property which would otherwise have belonged to the husband was transmitted to Petronila Encarnacion, together with the other half of the said property to which she was rightfully entitled under the law as the deceived wife.

"Fourth. That Vicente Romero Sy Quia, having become a regular domiciled denizen under the laws above cited, by reason of his long residence in this country for more than fifty years, and by reason of the further fact that he married a native woman, established himself in this city with a home of his own, acquired real property and engaged in business generally, most of the property left by him at the time of his death being real property, the questions raised by plaintiff's petition must be determined in accordance with the laws of the Philippines, to which Sy Quia submitted himself when he came to the Islands and secured a residence therein, and not in accordance with any other foreign or unknown law.

"Fifth. That, aside from the fact that it does not specifically appear from the record what are the Chinese laws applicable to the issues of this case, there is no proof of the existence of the Chinese laws referred to by the plaintiffs, nor is there anything to show that the books and pamphlets introduced by them in evidence contain any specific laws of the Celestial Empire."

9. The court erred in failing to find and decide, in accordance with article 10 of the Civil Code in force in the Philippine Islands, which provides that legal and testamentary successions, with regard to the order of successions, as well as to the amount of the successional rights and to the

intrinsic validity of their provisions, shall be regulated by the laws of the nation of the person whose succession is in question, whatever may be the nature of the property and the country where it may be situate; that the person in this case whose succession is in question was a subject of the Empire of China, and that under the laws of China plaintiffs are entitled to the entire estate.

10. The said court erred in failing to find and decide that each wife was entitled to one-half of the property acquired during the second marriage, and that for the purposes of distribution of said property the wives were each regarded as legitimate in law, and that the children of each marriage succeed to the interest which their respective mothers obtain from the common husband, together with the rents and profits if the second marriage was entered into in good faith on the part of the wife, and the law applicable to citizens of the Philippine Islands should be applied to the distribution of the said estate.

11. The said court erred in finding that the second wife, Petronila Encarnacion, and the persons holding under her were entitled to any of the property belonging to the estate of Vicente Romero Sy Quia.

12. The said court erred in discharging the receiver.

**ARGUMENT.****I.**

1. *The Supreme Court of the Philippine Islands erred in holding and deciding that the findings of fact of the trial judge of the Court of First Instance of the city of Manila, Philippine Islands, were contrary to the weight and preponderance of the evidence as determined by section 273 of the Code of Civil Procedure for the Philippine Islands.*

2. *The said court erred in finding that the only (competent) proof of the marriage of Sy Quia and Yap Puan Niu at Am Tao, China, in 1847, was the matrimonial letters which passed between their families previous to the marriage, and that the failure to produce these letters proved that the marriage never took place.*

3. *The said court erred in finding that Sy Quia was single because the ecclesiastical investigation and canonical certificates so stated.*

4. *The said court erred in failing to find that Sy Quia acknowledged Sy Joc Lieng and Sy Joc Chay as his legitimate grandchildren, as well as did his Filipino wife, Petronila Encarnacion.*

5. *The said court erred in finding that Sy Tiong Tay, a brother of Sy Quia, paid the expenses and supported Sy Joc Lieng, Sy Joc Chay, and Yap Pua Niu, because they stopped in Manila at his house, or that the contrary might have been proven from the books of Sy Tiong Tay.*

6. *The court erred in finding that the silence of Yap Puan Niu during her lifetime was unnatural or suspicious.*

8. *The court erred in finding and concluding as follows:*

"First. That it has not been duly established in this case that the Chinaman, Sy Quia, married in 1847 at Am Tao, Amoy, China, the woman Yap Puan Niu, or that the plaintiffs are the descendants of the said Sy Quia, for the reason that the marriage of Sy By Bo, Sy Bi Guit, and Sy Jui Niu, respectively, the affiliation and parentage of the latter, and of Sy Chua Niu and Siam Ham, and the adoption of Sy Yoc Chay, have not been proven."

Under section 10 of the act of July 1, 1902, the facts when the courts below differ will be reviewed by this court when the case is properly brought here on appeal from the judgment of the Supreme Court of the Philippines (*De la Rama vs. De la Rama*, 201 U. S., 303; 50 L. Ed., 785; *Strong vs. Repide*, 213 U. S., 419; 53 L. Ed., 853); and with all the more reason where, as here, the division of opinion exists not only as between the upper and lower court, but extends to the members of the higher tribunal.

Section 1 of act 1596 of the Philippines Commission (amending section 497 of act 190 thereof) provides as follows:

"In hearings upon bills of exception in civil actions and special proceedings the Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact, except as in this section hereinafter provided; but shall determine only questions of law raised by the bill of exceptions. But the Supreme Court may review the evidence taken in the court below and, after giving due weight to the fact that the judge who tried the case saw the witnesses when they testified, affirm or reverse by a preponderance of the evidence or modify by such preponderance, the judgment there rendered as justice may require, in the following cases:

"(1) \* \* \*

"(2) If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the evidence was insufficient to justify

the decision, and the judge overruled said motion, and due exception was taken to his overruling the same, the Supreme Court may review the evidence and make such findings upon the facts by a preponderance of the evidence, and render such final judgment as justice and equity may require \* \* \*."

It follows that the real question for this court to consider is whether the evidence introduced by the appellants and plaintiffs in the Court of First Instance *was sufficient* to justify the findings of the judge of that court that Sy Quia was married to Yap Puan Niu in Am Tau in 1847 and that the appellants are the legal descendants of that marriage.

Such was the view taken by this court in the case of *De la Rama vs. De la Rama* (301 U. S., 303; 50 L. Ed., 765), rendered before section 497 was amended. There that section (which provided that the Supreme Court of the Philippines could review the evidence and make findings upon the facts where the ground of the motion filed by the excepting party was that "the findings of fact were plainly and manifestly against the weight of the evidence") was fully considered by the court, and it was held that the real question for the court to consider was whether the finding of the Court of First Instance was so manifestly against the weight of the evidence that the Supreme Court was justified in reversing it (301, p. 313; L. Ed., 769). After reaching the conclusion that the judgment of the Court of First Instance should not have been reversed unless the findings of that court were plainly and manifestly against the weight of the evidence (*ibid.*, 314; Law Ed., 769) the court proceeded to make a thorough review of the evidence and held that there was no such preponderance against the findings of the lower court as authorized the Supreme Court under act 497 to set aside the conclusions of that court on the ground that the findings were manifestly and plainly against the weight of the testimony (*ibid.*, p. 318; Law. Ed., 771).

In the absence of any rule to the contrary applicable to the procedure in the Philippine Islands, it would seem that what constitutes "sufficiency" of evidence within the meaning of act 1596 should be what is generally recognized as such, to wit: proof offered of such a character and volume that it might well satisfy a rational mind of the truth of the position it is introduced to maintain (*Metropolitan R. R. Co. vs. Moore*, 121 U. S., 558, 568; 30 Law Ed., 1022-1025, citing *Stewart vs. Elliot*, 2 Mackey, 307, 315); or we can assume with Mr. Justice Moreland that the power of the Supreme Court to reverse or modify under act 1596 depends on the fact that the judgment below is "against the preponderance of the evidence" (Rec., 755). Irrespective of what view is adopted—if indeed a valid distinction exists between the two—we propose to show that the evidence of the marriage of Sy Quia and Yap Puan Niu in Am Tao in 1847 and of the appellants' relationship to Sy Quia is wholly sufficient to justify the decision of the Court of First Instance, and that it necessarily follows that his decision was not "against the preponderance of the evidence" submitted.

#### *Plaintiff's Theory of the Facts.*

We have grouped together and shall discuss the above specifications of error, believing that they are all founded upon substantially identical misconceptions of fact or law. To make our position better understood, we now proceed to explain to the court the facts which we consider to have been abundantly proven and which are conclusive, in our opinion, of the rights of the several parties in this litigation.

The fact is undisputed that Sy Quia, the common ancestor of the Chinese and Filipino parties in interest, was born in the village Am Tao, Province of Amoy, China, about the year 1822.

At the age of twelve years he went to the Philippine Islands and remained there until he became about twenty-



five years old. The fact that he passed these years of childhood and early manhood in the Philippines is established likewise by testimony of witnesses for both parties (Sy Peng, R., 127; Remigio Tongson, R., 313).

Sy Quia was then summoned by his parents to return to China to marry. He did so, and after the services of a go-between had been engaged, and the necessary inquiries and other formalities indulged in, his marriage was, about the year 1847, duly celebrated with a Chinese girl named Yap Puan Niu. This marriage is proven by the testimony of the following witnesses, who were acquainted with the parties and were present or took part in the preliminaries or the ceremonies: Sy Peng (R., 129), Lim Chio (R., 186), Yap Sy Tan (R., 200-201), Yap Chia (R. 214-215), Sy Kai Tit (R., 231), Sy Boan (R., 260-261).

For three or four years after the marriage Sy Quia remained in China, having, as the result of the marriage, two children—Sy By Bo, whose birth is sworn to by the following witnesses: Sy Peng (R., 131, 143), Lim Chio (R., 195), Yap Sy Tan (R., 202), Yap Chia (R., 217), Sy Kai Tit (R., 231), Yap Chong (R., 249), Sy Kong Leng (R., 276), Sy Jong Oan (R., 295), Sy Boan (R., 262), Lim Pan Ling (R., 403), Sy Qui Quion (R., 446), Sy Siang (R., 462), and Sy Hien (R., 435); and Sy By Git. The fact of Sy By Git's relationship to Sy Quia is likewise sworn to by all these witnesses. Sy Quia then went again to the Philippines, and, when the younger child was about two years old and the older child just beginning to walk, revisited Am Tao for a few days, returning promptly to the Philippines (R., 130). A second visit was made after the death of his parents, when he remained perhaps a year in China. It is interesting at this point to note that while at the time of his first return Sy Peng, a witness for the plaintiff, says he was acting as supercargo on his uncle's vessel (R., 130), Estefania Crisologo, a witness for defendants, referring to about the same period of time (R., 322), says he was an agent for his uncle, José Gloria Lecaros, thus giving an in-



teresting sidelight on the real facts of the case. The last visit is shown with especial clearness by the testimony for both parties (R., 193, 243, 270, 541, 547.) Meanwhile the two children of Sy Quia grew to manhood and Sy By Bo was, about 1870, married to Ho Him Niu (Sy Peng, R., 131; Sy Boan, R., 263; Sy Siang, R., 463; Yap Chia, R., 218; Sy Kong Leng, R., 280; Sy Kai Tit, R., 233; Sy Jong Oan, R., 295; Yap Chong, R., 250; Lim Pan Ling, R., 403, who actually witnessed the marriage; Sy Qui Quion, R., 447, and Sy Hien, R., 435), two children resulting from the marriage, one dying in infancy and another child being immediately adopted, named Sy Yoc Chay (Sy Peng, R., 132; Sy Sieng, R., 463; Lim Pan Ling, R., 404; Lim Chio, R., 190, 194, 196; Yap Sy Tan, R., 203; Yap Chia, R., 218, 226; Sy Kai Tit, R., 234; Sy Boan, R., 263; Sy Kong Leng, R., 281; Sy Jong Oan, R., 296; Sy Qui Quion, R., 448; Sy Yoc Lieng, R., 485; Sy Yoc Chay, R., 474, and Sy Hien, R., 436), one of the plaintiffs in this suit; the other child, a female, named Sy Jui Niu (Yap Sy Tan, R., 203; Yap Chia, R., 218; Sy Kong Leng, R., 281; Yap Chong, R., 251; Sy Kai Tit, R., 234; Sy Jong Oan, R., 296; Sy Boan, R., 263; Lim Pan Ling, R., 404; Sy Yoc Chay, R., 474; Sy Yoc Leng, R., 486; Sy Hien, R., 425; Sy Qui Quion, R., 448; Sy Siang, R., 463), one of the original plaintiffs, dying later and her only child and heir, Sian Han, being represented herein by his guardian. The testimony of the following witnesses shows the relationship of Sian Han to Sy Quia: Yap Sy Tan (R., 204), Sy Kai Tit (R., 235), Lim Pan Ling (R., 405), Yap Chong (R., 251), Sy Boan (R., 264), Sy Kong Leng (R., 282), Sy Long Oan (R., 296), Sy Siang (R., 463), Sy Yoc Chay (R., 474), Sy Yoc Leng (R., 486) and Sy Hien (R., 436). The other child of Sy Quia—Sy By Git—was married in China about 1871 to Yap Su Niu (Sy Peng, R., 144; Yap Sy Tan, R., 204; Yap Chia, R., 220; Sy Kai Tit, R., 236; Yap Chong, R., 252; Sy Kong Leng, R., 282; Sy Jong Oan,

R., 297; Lim Pan Ling, R., 406; Sy Slang, R., 464; Sy Yoe Chay, R., 475; Sy Yoe Leng, R., 484; Sy Qui Quilon, R., 449, and Sy Hien, R., 435), and there were born of this marriage Sy Yoe Leng, a male (Sy Peng, R., 144; Sy Kai Tit, R., 238; Yap Chong, R., 252; Lim Pan Ling, R., 407; Sy Yoe Leng, R., 483; Sy Slang, R., 465; Lim Chio, R., 191; Yap Chia, R., 220, 227; Yap Sy Tan, R., 204; Sy Boan, R., 205; Sy Qui Quilon, R., 449; Sy Kong Leng, R., 283; Sy Jong Oan, R., 297; Sy Yoe Chay, R., 475, and Sy Hien, R., 436), and Sy Chua Niu, a female. This fact is sworn to by the following witnesses: Sy Kai Tit (R., 238), Yap Chong (R., 252), Sy Boan (R., 206), Yap Sy Tan (R., 204), Sy Kong Leng (R., 283), Sy Jong Oan (R., 297), Lim Pan Ling (R., 407), Sy Slang (R., 465), Sy Yoe Chay (R., 475), and Sy Hien (R., 436).

After the return of Sy Quia to the Philippine Islands he took up his home in Vigan. At that time he appears to have been without particular property, being employed apparently as a traveling salesman and earning 200 pesos a year. In the year 1852 he was baptized into the Catholic church, and in June, 1853 (R., 14), he married Petronila Encarnacion. Shortly after the marriage he removed to Manila. By his second wife he had five children—Apolinaria, Maria, Gregorio, Pedro, and Juan. Apolinaria died without issue and Maria died leaving as her only child Generoso Mendosa, the descendants of Petronila Encarnacion being the defendants in this suit.

Sy Quia himself died in 1894, his first wife predeceasing him by about three years. He was buried at La Loma cemetery, Manila, next to his brother, Sy Ty (R., 400), and the inscription on the headstone, speaking of his "sobrinos" (nephews), referred to the children of Sy Ty (R., 540), and was apparently placed there by his Filipino family.

During the lifetime of her husband Yap Puan Niu visited Manila on at least two occasions, on the first occasion staying five months and the second time three or four months

(R., 465). On the second visit she was accompanied by her grandchild, Sy Yoc Leng, who at that time was about thirteen years of age (R., 465, 486, and 407). On this trip the wife of Lim Pan Ling accompanied her and her grandchild (R., 407). While in Manila Yap Puan Niu lived at the house of Sy Ty, who was a brother of Sy Quia. Sy Quia, in turn, frequently visited his wife (R., 407, 408, 450, 466, 491, 559), and when the time came for her return to China accompanied her to the boat and supplied her with money and other necessities (R., 559, 560). Meanwhile, the grandchildren were, one at the age of twenty years and the other at the age of fourteen years, taken care of in the house of their granduncle, Sy Ty, at the expense of their grandfather, and all school expenses paid by him (R., 486, 428-29, 426).

At the funeral of Sy Quia the two Chinese grandchildren were present, one of them, as he testifies, holding the head of his grandfather when he was placed in the coffin (R., 495). Afterward, on several occasions, Petronila Encarnacion, the Filipino widow of Sy Quia, gave sums of money, individual payments amounting to as much as 6,000 pesos (R., 551), to the grandchildren, the proof of one of the payments (4,000 pesos) appearing on the books of Sy Ty, the brother of Sy Quia, and being, by direction of the widow, charged against her account (R., 551, 555, 556, 557).

As indicated, many of the foregoing facts are made to appear as clearly by the testimony of the defendants as by that of the plaintiffs. For instance, Ana Quang Su, one of the wives of Sy Ty, knew of the presence of Yap Puan Niu at the time stated, although she undertook to deny that the cost of her maintenance and that of the grandsons was borne by Sy Quia (R., 533). The relationship of Sy Ty to Sy Quia, as brother, was apparently universally recognized. The fact that another brother, Sy Tiap, was lost in a storm off the Philippines was equally testified to by both sides. The last trip made by Sy Quia to China, occurring somewhere about 1864 to 1867, was testified to on both

sides by the witnesses living in Manila, as well as by several of the Chinese witnesses who were present at the Chinese marriage of Sy Quia in 1847 (R., 547). The presence of his two Chinese grandchildren at the time of the funeral of Sy Quia was also proven by plaintiffs and defendants. The presence of Yap Puan Niu, the Chinese wife of Sy Quia, in Manila, on two occasions, while accounted for by the witnesses for the plaintiff by reason of her relationship to Sy Quia, was entirely unaccounted for by any witness on behalf of the defense, although notably Ana Quong Su, one of the defense's principal witnesses, knew her and was in the same house with her on the occasion of her visits, she herself being, as stated, one of the two wives of Sy Ty, Sy Quia's brother living in the house.

In short, it may be said that the only attempt to disprove the marriage of Sy Quia in China in 1847 was the testimony furnished by the defendants, whereby it was sought to establish that for a period of years prior to 1853 Sy Quia resided continuously at Vigan in the Philippine Islands, so that it would have been impossible for him to have married in China as stated and to have had the children named by his Chinese wife. We desire, therefore, at this time to consider all the testimony in the case which it may be argued tends to show such a residence in Vigan as precluded the possibility of the Chinese marriage and the birth of the children by such marriage.

It will be borne in mind that the witnesses in China fix the age of Sy Quia, at the time of the marriage at Am Tao, at twenty-five years. In Chinese calculation this ordinarily means twenty-four years as we calculate, so that Sy Quia may have married either in 1846 or 1847. He remained thereafter at Am Tao about three or four years (R., 128, 187, 202, 216, 232, 261), showing that, according to the plaintiff's claim, he might have reached Vigan as early as 1849 and probably not later than 1850, or, in other words, three or four years before the performance of the

ceremony in Vigan and two or three years before his baptism in that city.

The first witness examined for defendants was Remigio Tongson, who was born in 1820 and first knew Sy Quia when he was about thirteen or fourteen years of age, or "little more than a child" (R., 313). He testifies that in 1847 Sy Quia was in Vigan and single. He calculates that he was seven or eight years older than Sy Quia (R., 314), although in fact, if his statements be correct, he must have been but two years older. He testifies that when Sy Quia first came to Vigan the latter was about thirty years of age. This would have put him there in about 1852. He next adds that Sy Quia was in Vigan about three or four years before he married Petronila. His next guess is (R., 315) that Sy Quia was twenty-six, twenty-seven, or up to thirty when he married Petronila, all of which points to so complete a failure of memory, coupled with a total incapacity to make the simplest calculations as to periods of time, as to make his statement that Sy Quia reached Vigan in 1847 utterly worthless, particularly when it is borne in mind that he gives no reason whatsoever for fixing the date of the arrival of Sy Quia in Vigan as 1847.

The next witness examined, Roman Gray (R., 316), only knew Sy Quia in 1851, when he requested to be baptized. He knew of the marriage with Petronila. It is somewhat significant that, *although clerk of the parish in 1850, he had no knowledge of Sy Quia until 1851.*

Estefania Crisologo, who was born about 1835, states that she knew Sy Quia about the year 1848, when he was in Vigan. Why she mentions the year 1848 does not appear in this testimony. Petronila was her husband's cousin. At that time she says he was selling clothes, which "we, the mestizas, purchased." What a girl of twelve years of age would have to do with buying clothes does not appear. The witness's statements as to the date when Sy Quia arrived, his age at the time of arrival, the length of the time

he lived in Vigan before he got married, and his age when he got married, are one and all accompanied by the qualifying clause "more or less." According to this witness Sy Quia might have arrived at Vigan anywhere between '46 and '50, might have been anywhere between 25 and 30 years of age, might have been in Vigan from 3 to 7 years before marriage, and married when 28 or 32 years old. She further states that Petronila's mother gave her 5,000 pesos when they went to Manila. But the judicial finding in this case on the settlement of the estate was that the P5,000 was inherited, this finding being apparently based upon the representations of the entire family of Petronila, herself included (R., 47, 81).

Alejandra Singson (R., 325) next testifies. This witness was born apparently in 1834, and claims to have known Sy Quia at Vigan some seven years before his marriage, or as early as 1846. He appears, at the time the witness first knew him, to have been a peddler, having no store, and the employee of Jose Gloria. In her cross-examination she places the period of Sy Quia's residence in Vigan before his marriage (R., 328) at "some five or six years," instead of seven years, as she had stated in the beginning. Although she testifies that Sy Quia was some 20 years old at the time of his arrival and that he was married "some five or six years" later, she was unable to compute his age at the time he was married, showing the prevailing inability apparent in the testimony of so many of the Vigan witnesses to make even the most elementary mathematical computations.

The next witness upon this point is Benita Encarnacion, born about 1845, who frankly tells us (R., 335) that she does not know how long Sy Quia had lived in Vigan before he married, as she was then but a child.

The next witness is Paulina Revilla (R., 338), who believes that the baptism of Sy Quia occurred in 1852, he himself being then Gobernadorcillo of San Vicente. *Although a public officer at that time, his knowledge of Sy Quia, like*



*that of the parish clerk, Roman Gray, was very slight, and tends to show that Sy Quia was not in Vigan until 1850 or '51 (R., 338).*

The next witness is Juana Querol (R., 340), who states that she knew Sy Quia, but does not remember when she knew him for the first time.

The next witness is Silveria Damian (R., 342). It will be noted that although the court apparently gives full faith and credit to the testimony of this witness, it has failed to perceive weaknesses in her testimony which are apparent even in the course of a cursory examination. 1st. The only date mentioned by this witness in either direct or cross-examination is the year 1848, given by her as the year in which Sy Quia came to Vigan. It is remarkable that this date should be so firmly fixed in her mind and yet that, although present at the marriage of Sy Quia, she could not give the year in which this marriage took place; nor, although she knew that Sy Quia was baptized and although it may be reasonably inferred from her testimony that at the time of such baptism he was occupying the same house with her and her husband, could she remember even approximately the year of his baptism. 2d. On being asked what year she knew Sy Quia, she gives the year 1848, when he arrived at Vigan, and in order to show how she came to know him she gives as the reason that "Sy Quia stopped at our house here when he arrived in Vigan, because my husband and Sy Quia are countrymen." In a word, she fixes the date of Sy Quia's arrival by the fact that on his arrival he came to live with her husband and herself because her husband was of the same nationality as Sy Quia. But on cross-examination she states that she was not married when Sy Quia came to Vigan, thereby completely nullifying the effect of her testimony whereby she sought to fix the date of his arrival by the fact that he then came to live with her husband and herself. 3rd. Not only is her testimony of itself contradictory, but in its essential point—the



fact that she came to know Sy Quia in 1848 because of his coming to live with her and her husband when he arrived in Vigan in that year—it cannot be reconciled with the testimony of two other witnesses, Alejandra Singson and Estefania Cristologo. The former states that she knew Sy Quia from five to seven years before he was married, and that from the time she first knew him he lived in the house of one “Lavin and Benita Encarnacion” (R., 326); the latter that she knew him first in 1848 and that he first lived in “the house of D. Paulino Lavin and later in the house now occupied by Benita Encarnacion” (R., 322). There is another feature of this woman’s testimony which, in connection with a fact indubitably established by the record, shows that she is guilty of deliberate falsification at least on the following point: She states that she saw the delivery to Doña Petronila by her mother of five thousand pesos at the time of the marriage and as a marriage portion (R., 345, 344, 343). The record shows (R., 47, 51, 81) that, according to the document containing the inventory of Sy Quia’s estate drawn up by Petronila’s lawyers at her request and subsequently ratified by her in all its parts (R., 101), she brought absolutely nothing to the conjugal partnership. The sum of five thousand pesos is specifically mentioned in the inventory itself as having come to Petronila Encarnacion after her marriage and as an inheritance from her mother (R., 51), and as distinctly not belonging to the community property (R., 79). This fact alone shows a deliberate fabrication on the part of this witness, and of its own force suffices to render her testimony on other points unworthy of credit.

Felix Millan (R., 512) testifies that he was 69 years of age (consequently born in 1838), and therefore was fifteen years old at the time of the marriage. He knew Sy Quia and became acquainted with him because, as he states, his father used to be Sy Quia’s employee. While the fact, if true, that his father was an employee of Sy Quia might

serve to show why the witness became acquainted with him, of itself it constitutes no basis for the assumption that the witness was of any particular age at that time. When asked in what year Sy Quia married (which was of course a matter of common knowledge in Vigan) he cannot give the year, but states that he was fifteen or sixteen at that time, which is true (R., 512). When asked when he first knew his relative Petronila Encarnacion and was requested to give the year "more or less," he was unable to do so, and designates that time first as the time "when the captain-general went to Vigan" and next as "when I had sense" (R., 513). When asked how long Sy Quia was in Vigan before he got married, he states that he does not remember how long, but that at that time he was already a grown boy (R., 513). He is apparently unable to compute the difference between nine and sixteen, and his attorney was obliged to do it for him (R., 513). He remembers that Sy Quia became a Christian and was baptized at San Vicente, but does not remember when (R., 514). So much of his testimony as serves for a basis for testing his recollection shows (1) that he remembers that when Petronila Encarnacion, his relative, was married he was fifteen or sixteen years old, but cannot give the year of the marriage; (2) that he cannot designate the year when he first knew this relative either by naming the year or giving his own age at that time; (3) that, although he remembers the fact and specifies the place of Sy Quia's baptism, he does not remember when it occurred, although he was a boy of thirteen at the time. He might have attempted to fix the time at which he says he first knew Sy Quia by stating that it was six or seven years before the marriage of his relative Petronila Encarnacion to Sy Quia, but, as the record shows, it was not he but his attorney who does this (R., 513). Standing alone, the statement that he came to know Sy Quia at nine because his father was his employee is not altogether convincing, still less so when it is considered in connection with his statement

that he knew Sy Quia in 1847; that is to say, at the very earliest period assigned by any of the witnesses as the date of his arrival at Vigan, at which time some of these same witnesses testify that he was an employee, receiving \$8.33 a month. It is hardly reasonable to suppose that under these circumstances Sy Quia would have been in a position to employ anybody else. If, however, the statement is true that the witness came to know Sy Quia because his father worked for him, this must have been some years after the former's arrival in Vigan and after he had progressed beyond the position of clerk at \$8.33 a month.

Aniceto Singson's testimony proceeds exactly along the same lines as that of the preceding witness. He states that he is a cousin of Petronila Encarnacion (R., 517) and that he knew Sy Quia at six or seven years of age (R., 517) and that the latter married Petronila Encarnacion when the witness was about twelve or thirteen years of age (R., 517). According to this witness he knew Sy Quia in the year 1847 or '48, and Sy Quia was married between 1853 and '55. He knew that Sy Quia did not leave Vigan between the period when he first knew him until his marriage, because Sy Quia "visited our house very often and was an intimate friend of my father." But the witness is unable to compute the difference in years between 1847 and 1854. There is absolutely no attempt to explain how the witness knows that it was exactly fifty-nine or sixty years before testifying that he first met Sy Quia.

Norberta Feril (R., 519) was born in 1830 and married in 1847. When she first knew Sy Quia she was a girl "already grown." She was also related to Petronila Encarnacion, and she states that Sy Quia married her about a year, more or less, after her own marriage. This would make him married to Petronila in 1848, contrary to the established facts of the case. She indulges in various contradictions in the testimony relative to the time when Sy Quia, with his Filipino wife, left Vigan. Her testimony is so flatly contra-

dictory of established facts, as stated, as to be entirely untrustworthy.

Macario Favila (R., 526) first heard of Sy Quia in Vigan when he was a young boy, as he states, but did not know him until he came to Manila.

The next witness was Ramon Rodriguez, who was born about 1842, and consequently eleven years old at the time of the marriage. He says that he knew Sy Quia "since he had sense," and that when he knew him in Vigan he was single. He declares (R., 527) that about four years elapsed between the first time he knew Sy Quia and the time he married, which would place his knowledge of him, if correct, in 1849, and that during those four years he did not leave Vigan. He states, however, that in 1849 Sy Quia was his father's broker, "the one who bought the indigo" (R., 529), this being in conflict with the statements of Alejandra Singson and Estefania Cristologo, who testified that he was the employee of José Gloria, and sold cloths. If the witness's statement as to Sy Quia's occupation, when he first knew him, is correct, it is clear that it must have been at a later date than the one he gives, and after his occupation as salesman had ceased.

Let us sum up the testimony of these witnesses to determine whether, altogether, they have raised even a decent doubt as to the truth of the testimony of the Chinese witnesses, that from 1846 or 1847 to 1849 or 1850 Sy Quia was in China. The testimony of several, as indicated, is to the effect that Sy Quia arrived at Vigan in 1847 or 1848, Felix Millan being the only one who states unequivocally that Sy Quia arrived when he was exactly nine years old, or in 1847. In weighing the evidence the following facts must be taken into consideration: The youngest of five witnesses on this point was sixty-six years of age, and the facts concerning which they all testified are alleged to have occurred between fifty-five and sixty years before the testimony was taken. Their establishment of dates is not based upon any

reference to any other fact occurring about 1847 or 1848, which fact was undoubted and of such a nature as to have prevented error in the minds of the witnesses. In truth, it appears as nothing more than a mere surmise. Men of sixty-six years and over, so illiterate, as the testimony shows, as not successfully to be able to tell the number of years which elapsed between the time they were six years of age and twelve or thirteen years, as is the case with some of these witnesses, are hardly to be trusted on dates. The uncertainty of their testimony, and some, at least, of its contradictions have already been made the subject of comment. We now call attention to the fact that no reason is given by any of them justifying positive statements contradictory of the testimony of the Chinese witnesses. Nothing in their testimony shows that the coming to Vigan of a Chinese employee earning less than 17 pesos a month should have impressed itself on their minds more than that of the coming of any other Chinaman in that part of the country. The date of his arrival is in no manner associated by any connecting circumstance with the date of his marriage, and his stay in Vigan after the marriage was but a short one. Even the sister of Petronila, who as Sy Quia's sister-in-law might be expected to know how long he had been in Vigan before he married, shows a total ignorance of the fact.

To sum up, we have then a situation where the fact of the marriage in China has been testified to by six witnesses who swear they were present therent, and by as many more who testify that they knew of it as of common knowledge, the testimony of all of whom stands uncontradicted and unimpeached. Is it to be discredited because some dozen witnesses offer testimony to show that fifty-nine years before the date of testifying one of the parties to the marriage was not in the place where it was said to have been performed, particularly when at least half of them have a personal interest, as relatives, in establishing the facts to which they swear and not one can assign any reason to justify their recollection; where they are all ignorant and scarcely able

to count; where the testimony of most of them is not in real conflict with the contention that the husband was in China when the marriage took place; and where the testimony of the only two witnesses who were in a position, through holding public office, to know better than the rest of the presence of Sy Quia in Vigan from 1847 to 1853, tends to show that he was absent, rather than present, during the first three years of that period? This court has already answered this question in the case of *Gaines vs. New Orleans*, 73 U. S., 642; 18 Law. Ed., 661:

"We will now proceed to consider the question of actual marriage and whether Clark in good faith contracted it. Madame Sophie Despau swears to solemnization of a marriage between Clark and Zulime by a Catholic priest, in Philadelphia, in 1802 or 1803. If this witness is to be believed, here is an end of the case, for no amount of negative testimony that Clark could not have made the marriage will weigh down the testimony of an unimpeached witness, who was present and witnessed the ceremony."

*Errors of Fact Committed by the Supreme Court of the Philippines.*

It must be apparent from the foregoing that there was no testimony whatsoever submitted on behalf of the defendants adequate to raise even a substantial doubt of the fact of Sy Quia's absence from the Philippines and presence in China from about 1846 or 1847 to 1849 or 1850. This was the opinion of the trial court, which had an opportunity of seeing all the witnesses brought before it, as well as to read the testimony taken at Vigan and Amoy, for the court says (R., 375):

"There is practically no conflict in the evidence received except such as possibly may be drawn from inference."

and his findings of fact are in substantial conformity with the statements we have made.



It may, then, be asked how it happened that the appellate court, upon these points of fact, reversed the court below and failed to find any persuasive evidence of the Chinese marriage. We have to say that the appellate court, as we believe, grossly erred, not alone in its conclusions from the facts actually before it, but in stating as facts things which were not substantiated by the evidence. We shall endeavor, as succinctly as may be, to make clear the errors and misunderstandings under which the court labored.

In commencing the examination of the testimony of the witnesses for the plaintiff (R., 649), the court said:

"It will be noticed that Sy Peng stated that upon the death of Sy Quia, the women of his house extended their sympathies, as customary, to his widow in China. This, however, is not true because it appears in the record as a proved fact that Yap Puan Niu died in 1891, while Sy Quia died in this city in 1894."

This statement is a half truth. Sy Peng did state that—

"At the time of his death the women folk of my house paid a visit of condolence to his wife in China, as was the custom,"

but that this was a misapprehension on the part of the witness of the question he was answering, or a misinterpretation, is evident, because immediately thereafter he states (R., 169) the fact that:

"At the time Sy <sup>Quia</sup> ~~Peng~~ died, Sy Quia's wife in China had died long ago."

And again:

"Q. Why then do you say that the women folks of your house went to pay a visit of condolence to Sy Quia's wife and children if the wife had been dead long ago?

"A. No. I did not mean that. Sy Quia's wife in China had been dead before Sy Quia died."

The court, therefore, ignores the corrected statement and takes the manifestly erroneous one for the purpose of impeaching the witness.

The court next states that:

"Lim Chio affirmed that Sy By Bo, the alleged son of Sy Quia, had two children by his wife, one of them being Sy Yoc Chay. This is not true, because Sy Yoc Chay was only an adopted son."

When we turn to the evidence (R., 190), we find that the witness stated that Sy By Bo had a boy and a girl and that the name of the boy was Sy Yoc Chay. The witness did not say that Sy Yoc Chay was born of ~~Sin Ho Chiu~~ Niu, the wife of Sy By Bo. The same question was asked of Yap Si Tan (R., 203), and she answered it in the same way, but proceeded to explain that Sy Yoc Chay was an adopted son, and a fuller explanation is contained in the testimony of Yap Chia (R., 218), who said that a son was born to ~~Yap Si Tan~~ Niu, dying an infant, and Sy Yoc Chay being adopted in his stead, while the witness, Sy Kai Tit, answering the same question with reference to this couple (R., 234), say that they had two children:

"One Sy Yoc Chay. This was an adopted boy."

See to like effect the testimony of Sy Boan (R., 263).

The court further proceeds to say that:

"The witness Yap Si Tan testified that Yap Puan Niu lost a natural child, whose name she did not remember, and in his place adopted Sy Yoc Chay as her son. This fact is not testified to by any of the other witnesses, who simply said that the adoption had been made by Sy By Bo."

This is, to say the least, a distorted reference to the testimony. On page 205 the witness is asked whether Sy Yoc Chay was a natural son of the marriage of Sy By Bo, or if he was adopted by Sy By Bo and she answered:

"Sy Yoc Chay is the adopted son. Yap Puan Niu had had a natural son, when that son died Sy Yoc Chai was adopted. Sy Yoc Chai is the son of Sy Bi Bo, and the grandson of Yap Puan Niu."

Again, on the same page, she said:

"Sy Bi Bo is the father of Sy Yoc Chay."

Once more, on page 206, being asked if Sy Yoc Chay is a natural son of Sy Bi Bo, she said:

"He is the adopted son."

Having three times over, therefore, testified to the true relationship and in conformity with the testimony given by other witnesses, we would be justified in criticizing more severely than we have the language of the court below.

The next comment made by the Supreme Court of the Philippine Islands is that:

"The witness, Yap Chia, who testified that he had been present at the wedding of Sy Quia with Yap Puan Niu, must have been eight years old at the time."

As indicative of the general carelessness with which the Supreme Court treated the record, we refer to the fact (R., 214), that the testimony having been taken in 1906, and the witness then being seventy-two years old, he was born in 1834, and at the time of the marriage must have been thirteen years of age, and not eight, and this is his testimony on that page, he saying, when asked his age at the time of the marriage:

"I was about twelve or thirteen."

The court next remarked:

"The other witness, Sy Kai Tit, who was about seventy-one years of age, and who, according to himself, was about twelve years old at the time, stated

that he had taken part in the investigation made as to the status and condition of the bride Yap Puan Niu, having assisted Sy Quia's parents and mediator in the investigation."

The witness' testimony on this point shows how thoroughly misleading the above statement is:

"I was helping there (at the negotiations) doing what job I could" (R., 240). "The part I took was to do what little I could then in the way of making inquiries" (R., 241).

The court below continues:

"Another witness by the name of Sy Boan testified that Sy Quia when he died in this city, left a surviving widow, Yap Puan Niu, who was still living in China, this being in direct contradiction of the established fact, as Yap Puan Niu died before Sy Quia."

"It is difficult to understand why the court made such a statement, for when asked (R., 268), if he was sure that Yap Puan Niu died before Sy Quia, he answered

"Yes, sure,"

and an instant afterward fixes the time between the deaths of the two at about three or four years, which, as above shown, the court below, in other connections, has considered to be correct.

The Supreme Court of the Philippines further says:

"This witness (Sy Boan), further said that when Sy Quia returned for the second time to China to attend his parent's funeral, his alleged wife, Yap Puan Niu, was still living, his testimony in this respect being in contradiction of that of the other witnesses, Lim Chio, Yap Si Tan, and Si Kai Tit."

Again the court has fallen into what we may mildly term a grievous error. While it is true that Sy Boan (R.,

270), did say, as was the fact, that when Sy Quia returned a second time to China to attend to the funeral of his parents Yap Puan Niu was still living, examination of the testimony of the witnesses named shows that no one of them testified with regard to Yap Puan Niu being living or dead at the time of Sy Quia's second return. Furthermore, it was impossible that they should have testified as the court represents them as testifying, when one considers the fact that Sy Quia's return to China was in the sixties, whereas the court itself finds that Yap Puan Niu died in 1891. Familiar as they all were with the family of Sy Quia, living in a village where his wife had always lived after marriage, it is impossible that any of them should have dreamed of giving such testimony, contradictory to the fact, as the court attributes to them.

We may waive the statement of the court that most of the witnesses above referred to

"have seriously contradicted themselves on important points in the course of their cross-examination,"

in view of the fact that the court has not been right in a single criticism, and that if there had been important contradictions, in view of the attitude it has taken, it would not have failed to call attention to them in its opinion. We may also waive the suggestion (R., 649) of any of them having told improbable stories relative to assisting in bringing about the marriage, considering that while some of them were but twelve or thirteen years of age, others were as old as Sy Quia and his wife and their associates.

Justice Torres repeatedly grounds his disbelief in the marriage in China upon the fact that the matrimonial letters, so called, were not produced in evidence. He does this although the testimony of at least one of the witnesses shows that no particular importance is attached to them and that they are permitted to be lost or destroyed without special attempt at preservation (R., 197), and to fortify its position

the court alleges that Li Ung Bing, a witness for the plaintiffs, states that the proof of marriage

"could only consist of the matrimonial letters or cards which should have been exchanged between the families of the two contracting parties."

It is interesting to note that the witness referred to makes no such statement as attributed to him. What occurred was as follows (R., 123):

"Q. The letters or contract of marriage which are exchanged by the heads of the two families have what legal significance in reference to the marriage?

"A. They contain a promise to marry or a betrothal, but bear no evidence as to whether the marriage has been consummated" (and see R., 119).

Nor is it true, as the court states, that the position supposed to be taken by the witness is corroborated by writers to whom the court refers. We have only available before us one of them, *Diccionario Enciclopédico Hispano Americano*, volume 5, second part, title China, page 1779, which contains the description of the marriage ceremonies, substantially in accord with that given by the witness above referred to, but not sustaining, either directly or by implication, the opinion of the court. We do not refer to the other authorities because the whole subject is covered by article 55 of the Civil Code in force in the Philippine Islands, which provides that—

"A marriage contracted in a foreign country, where these acts, not made subject to a regular authentic registration, may be proven by any of the methods of proof admitted in law."

Nor is it true, as stated by Justice Torres, that the evidence shows that these matrimonial letters are "duly preserved" (R., 650), or that their contents are "customarily recorded" (R., 653). On the contrary, the evidence shows distinctly that no "record" of these letters is kept (R., 112, 113).



The result of the court's holding on this point may be thus summed up: That a marriage in China cannot be proven in the absence of marriage letters which the contracting parties never had in their possession and never saw (R., 112; R., 224-225), which are not even signed by the mediator (R., 118-119), which are not recorded (R., 112-113), which do not constitute evidence of a consummated marriage (R., 119, 123), which are kept by the heads of families only for the time being (R., 124, 257), which "may be given to the children to play with (R., 197), and finally were exchanged by parties other than the parties to the marriage more than fifty-nine years ago (R., 224-225).

We cannot leave this subject without further reference to the testimony of Li Ung Bing, upon a misconception of whose statements Mr. Justice Torres, as indicated, rests in part his opinion. So far from having stated that the marriage letters were the only proof of the marriage, he said (R., 122) that the "tablet is a conclusive evidence as to the relation of the woman to the husband, there can be no mistake on that point, as the 'mourning law' is the most definite and 'particular.'" Turning, then, to page 307 of the record, we find this conclusive proof in the tablets themselves.

Bearing in mind the foregoing considerations, we may, as we think, properly object to the test of the proof of the marriage considered by Mr. Justice Torres.

#### THE "FALSIFICATION" OF THE TABLETS.

The record shows (p. 307) that the plaintiffs offered three ancestral tablets, or sets of tablets, to prove the marriage of Sy Quia to Yap Puan Niu and of Sy Bi Bo and Sy Bi Git to their respective wives, Ho Gim Niu and Yap Sun Niu; the tablets being taken from the family temple of Sy Yoc Leng by himself and the witness Sy Peng and brought to Amoy for the purpose (R., 149).

On pages 650 and 651 of the record the court unqualifiedly declares the tablet inscribed to Sy Quia and Yap Puan Niu

as "fraudulent" and "fabricated," because it appears from the translation made of the tablet by the interpreter Li Ung Bing that Sy Quia died in 1891, whereas he actually died in 1894 (R., 650).

What appears at first sight to constitute a vital discrepancy between the alleged contents of the tablets and the proven facts of the case is, however, easily explained—not by argument or theory, but by the tablets as transcribed, the admitted facts of the case, and by verifying the interpreter's translation of the Chinese dates by reference to the Chinese American Calendar issued by the Department of Commerce and Labor (Government Printing Office, 1904). This calendar is a comparative almanac, beginning with the year 1849 and giving day for day the official Chinese dates corresponding to the Gregorian count (pp. 9-74). It also contains a list of the Chinese "cycle" years included in each *cycle of sixty years* starting with our year of 1849, which corresponds to the cycle year of *Kei Mow*, or the official *29th Year of Do Kwong* (p. 9). The titles of the Chinese "cycle" or of the official years are not always spelled the same in the Chinese American Calendar as they are spelled by the interpreter. As appears from the testimony of the Chinese Consul General in Manila (R., 510) this is not to be expected; but the spelling is such as to show plainly which years are meant.

The tablet erected to Sy Quia and Yap Puan Niu, as reproduced in the record shows:

(1) That Sy Quia was born the "4th day, 1st moon, Kui Wie year." This year appears as the "Kwei Mei cycle year" in the Chinese American Calendar, and as corresponding to the year 1883, as applied here to the year 1822-1823; or, as the interpreter says, interpreting in 1906, "84 years ago" (R., 307).

(2) That Sy Quia died the 22d day of the eleventh month of the "Sin Bau" year. This is given in the Chinese American Calendar as the "Sun Mow" *cycle* year, or the 17th year of Kwong Sui, the 22d day of the eleventh month of which is December 22d, 1891 (Chin.-Amer. Calendar, p. 51).

(3) That Yap Puan Niu was born the twelfth day, third moon, of the "Ting Hai" year, given in the Chinese American Calendar as the "Ting Hoi" *cycle* year, corresponding to 1887, which in this case would mean 1826 to 1827, or "eighty years ago" (R., 307).

(4) That Yap Puan Niu died the third day, twelfth moon, "Kui Su" year. Reference to the list of *cycle* years in the calendar gives this cycle year as Kwai Tsz, corresponding to the year 1893, or the nineteenth year of Kwong Sui; and we learn, moreover, from the lips of the interpreter, on page 308 of the record, that the "Kui Su" year is the "nineteenth year of Kuang Hsu." Turning to page 53 of the calendar, we find that the third day of the twelfth month of of the nineteenth year of "Kwong Sui" (Kuang Hsu) is *January 9, 1894, or the exact date on which we know that Sy Quia died.*

Expressed in tabulated form the dates of birth and death of Sy Quia and Yap Puan Niu appear upon the tablet as *transcribed* as follows:

Date of birth.	Date of death.
Sy Quia: 1822 to 1823.....	1891
Yap Puan Niu: 1826 to 1827.....	Jan. 9, 1894

Now it is a conceded fact that Sy Quia died on the 9th day of January, 1894, as is shown by the date engraved on his tombstone at Manila and in many places in the record; and the Supreme Court finds it "a proved fact" that Yap Puan Niu died in 1891 (R., 649). This finding is fully substantiated by numerous witnesses who testified she died about 1891 (R., 136, 188, 200, 217, 232, 262, 294, 461, 476), while one witness testifies that she died at the age of 64 or 65, which in connection with the date of her birth given in the tablet shows that she must have died in 1891 (R., 224). That the tablet gives the date of her birth correctly is shown by the testimony of many additional witnesses, who, by testifying that she was about 21 when she married (in 1847),

show that she must have been born in 1826 or 1827 (R., 161, 187, 195, 201, 214, 216), while Yap Si Tan, testifying in 1906, states that she is 78, and that Yap Puan Niu was two years older than she (R., 207); again corroborating in a most convincing manner the statement of the tablet as to her birth in 1826 or 1827, or as the interpreter states, "eighty years ago" (R., 307).

To sum up: The tablet to Yap Puan Niu and Sy Quia, as *translated* by the interpreter, contains the correct dates of the birth and death of each of them; but what the Supreme Court of the Philippines accepts as the proven facts of the case, supported by the uncontradicted testimony of a dozen or more witnesses in the record, show, it seems to us, as beyond question, that in *transcribing* the vertical Chinese script to the horizontal Roman, the interpreter placed the dates of death which he had translated opposite the names of the wrong parties.

If, however, it is thought there is any room for doubt as to the correctness of our contention, it must be utterly swept away by an examination of the tablets erected to Sy Bi Bo and his wife, Ho Gim Niu, *where exactly the same mistake in transposition occurs*, but where (because the tablet gives in so many words the ages at which Sy Bi Bo and his wife died) it is more easily and as certainly detected.

Transcribed into the record and presented for the sake of clearness in tabulated form, this set of tablets as transposed announces the following facts:

	Date of birth.	Date of death.	Age.
Sy Bi Bo.....	(59 years before 1906 or 1847)	(14 years before 1906 or 1892-3)	35
Ho Gim Niu.....	(57 years before 1906 or 1849)	(25 years before 1906 or 1881-2)	44

On its face the transcription is obviously absurd, for it is apparent that had Sy Bi Bo died in 1892-1893 he would have been 45 or 46, and not 35, as the transcription states in so many words; and equally apparent that had Ho Gim Niu

died in 1881-1882 she would have been 32 or 33 at the time, and would not have "died at the age of 44," as stated in the tablet, which we quote (R., 308).

If, however, we transpose the dates of death to read thus:

	Date of birth.	Date of death.	Age.
Sy Bi Bo.....	1847	1881-2	35
Ho Gim Niu.....	1849	1892-3	44

the absurdity at once disappears; and, what is still more important, we find that the fact that it was Sy Bi Bo—who died about 1881-1882, is abundantly proven by a large number of uncontradicted witnesses (R., 170, 174, 218, 249, 262, 295, 447, 474, 485), and that it was Ho Gim Niu who died about 1892-1893 (R., 189, 218, 250, 256, 263, 295, 447, 463, 485).

These errors in transposition do not occur in the case of the tablets erected to the memory of Sy Bi Git and his wife, Yap Sun Niu, the dates of whose birth and death as given in the tablets is substantiated by those witnesses in the record who testify concerning these facts (R., 190, 231, 249, 446, 286, 276, 235, 406, 448, 483, 220, 252, 297, 406, 449, 484).

Turning from a consideration of the *transcriptions* of the tablets as they appear in the record to the *tablets* themselves (the presence of which in the clerk's office became known to us only after the foregoing had gone to type), we find that they confirm in a most striking manner the truth of our contention, namely, that in transcribing the vertical Chinese script to the horizontal Roman the dates of death in the case of the tablets erected to Sy Quia and Yap Puan Niu and to Sy Bi Bo and Ho Gim Niu were assigned to the wrong parties. And we find, moreover, that the tablets themselves explain why this should have occurred in the case of these two just named, and not in the case of the tablet dedicated to Sy Bi Git and his wife, Yap Sun Niu.

With the assistance of Mr. Yung Kwai, secretary of the Chinese Legation in Washington, we learn that the tablets are drawn up in the following manner, each of which we reproduce in the *form* which it presents, but in the *words*

of the interpreter, Li Ung Bing, as they appear of record (R., pp. 307, 308, 309):

Inner Tablet to Sy Quia and Yap Puan Niu (Interpreter's Translation).

1.	2.			3.	4.
Died	Died			Born	Born
Time	Time			Time	Time
of	of	Deceased	Deceased	of	of
Hai	Su	grandmother	grandfather	Jen	Jen
3rd	22nd	Si Yap Si	Mr. Sy	12th	4th
day	day	her	Tiong	day	day
12th	11th	virgin	Quian	3rd	1st
moon	moon	name		moon	moon
Kui	Sin	Puan		Ting	Kui
Su	Bau	Kien		Hai	Wie
Year	Year			Year	Year

Reproducing the above, maintaining the *form* and substituting the Gregorian dates as given in the Chinese-American Calendar, we have the following:

1.	2.			3.	4.
Died	Died	Deceased	Deceased	Born	Born
January	December	grand-	grand-	1827	1823
9th	22nd	mother	father		
1894	1891	(etc.)	(etc.)		

(See Table of Cycle Years and pages 51 and 53, Chinese-American Calendar.)



As we have already shown, the Supreme Court of the Philippines has accepted as "proved facts" that Sy Quia died on January 9, 1894, and Yap Puan Niu in 1891; and the fact that he was born about 1822-1823 and she about 1826-1827 has been abundantly proven by the uncontradicted testimony of the numerous witnesses, reference to whose statements on this point has already been made (*ante*, fol. 38). It then becomes obvious that columns 1 and 4 refer to Sy Quia, and columns 2 and 3 to Yap Puan Niu. The outer or more prominent columns are devoted to the life history of the man and the inner columns to that of the woman. This fact is again made apparent by the tablet erected to Sy Bi Bo and his wife, which presents the following arrangement:

*Inner Tablet Dedicated to Si Bi Bo and Ho Gim Niu (Interpreter's Translation).*

1.	2.			3.	4.
Died	Died		Mr.	Born	Born
Time	Time	Mrs.	Bi (or Mi)	Time	Time
of	of	King	Bo	of	of
Yu	Su	Niu	(Babe Name)	Jen	Jen
3rd	23rd	died	died	4th	17th
day	day	at	at	day	day
8th	7th	the	the	2nd	7th
moon	moon	age	age	moon	moon
Jen	Kui	of	of	Kian	Bo
Wu	Su	forty-	thirty-	Suo	Chen
Year	Year	four	five	Year	Year
		Grave	Geomancer's characters		
		located			
		at			
		Pie Ah Kien			

Reproducing the above and maintaining the *form* and substituting the Gregorian dates as given in the Chinese-American Calendar gives us the following:

1.	2.			3.	4.
Died Sept. 14th 1882	Died Sept. 3rd 1893	Ho Gim Niu died at 44	Bi Bo died at 35	Born March 15 1850	Born 1848

(See Table of Cycle Years and pages 42, 53, and 10 of Chinese-American Calendar.)

As shown (*ante*, fol. 39), this tablet, because it specifically gives the ages at which Sy Bi Bo and his wife died, effectually proves that columns 1 and 4 *must* refer to the person therein designated as dying at the age of thirty-five, and columns 2 and 3 to the person who "died at the age of forty-four." In the absence of anything contained in the tablet to indicate the contrary, it seems to us this result must follow as certainly as it follows that two and two make four. An examination of the original tablets will show even to one unacquainted with Chinese that the data as to the wife in both the tablets referred to, but especially in the tablet to Sy Bi Bo and his wife, appear to have been crowded in after the outer columns were inscribed and between them and the two center columns, naming the respective spouses.

Turning now to the tablet erected to Sy Bi Git and his wife, Yap Sun Niu, we find that on the "inner" tablet his name, etc., and the dates of *his* birth and death alone are inscribed, and that similar data concerning Yap Sun Niu are inscribed separately on the reverse side of the outer tablet; so that when the tablet is assembled the two inscriptions are touching each other, face to face. The fact that these inscriptions are separate instantly explains why, in this case, the interpreter made no mistake in transcribing the contents of these tablets into the record. It was because

there was no room for a mistake. These tablets furthermore indicate that in that part of China whence Sy Quia and his sons came an ordinary form of inscribing the name of an ancestor on the inner tablet is to place the name in the center, the date of birth on the right, and that of death on the left; with the necessary result that when, as in the case of the inner tablets inscribed to Sy Quia and Si Bi Bo, and their respective wives, the inscriptions to both ancestors are inserted on the same face, the same general form is followed, the data as to the husband being given the greater prominence by being placed on the margin, those of the wife following the same form, but being inserted inside the columns inscribed to the husband. That a double inscription was contemplated with regard to the first two tablets is indicated by the fact that the outer columns in each are as close to the edge as they can well be placed and be plainly decipherable, which is distinctly not the case in the inner tablet inscribed to Sy Bi Git.

The appearance of the tablets erected to Sy Bi Git and his wife is as follows:

*Inner Tablet to Sy Bi Git.**Interpreter's Translation.*

Died	Mr.	Born
Time	Sy	Time
of	Bi (Mi)	of
8u	Gi	Chao
21st	died	11th
day	at	day
7th	the	9th
moon	age	moon
Kian	of	Chi
Chen	thirty-	Yu
Year	two	Year
of	Grave	
Kuang	at	
Hsu	Hui	
	Yao	
	Geomancer's characters	
	Geomancer's Characters	

*Inner (on Reverse of Outer) Tablet to  
Yap Sun Niu.**Interpreter's Translation.*

Died	Mrs.	Born
Time	Yap	Time
of	Sung	being
Jen	our	unknown
28th	deceased	15th
day	mother	day
4th	died	10th
moon	at	moon
Kia	the	Kui
Ching	age	Chao
Year	of	Year
of	thirty-	of
Kuang	two	Tao
Hsu	Ju Ji	Kuang
	King Po	
	San	
	Geomancer's characters	
	grave located	

The dates being reproduced in English terms as before:

Died	Si Bi Git	Born
August 26th 1880	died at 32	October 26 1849

Died	Yap Sun Niu	Born
May 22nd 1884	died at 32	November 15th 1853.

(See as to Sy Bi Git Table of Cycle years and pages 9 and 40; as to Yap Sun Niu Table of Cycle years and pages 13 and 14, Chinese-American Calendar.)

Had it not been for the stigma necessarily cast on each and every representation made by the appellants by the suggestion that the tablets were false, we should not have felt justified in going as fully as we have into the particular subject now under discussion. But to denounce the tablets as "glaringly false," and as presented only to supply proof of "the so much talked of marriage in China," was to denounce their presentation in evidence as but one step in a gigantic scheme to defraud the real heirs of their property rights and which, unrefuted, might well have served to clothe with a sinister meaning any innocent slip in oral testimony offered by the appellants, ordinarily easily explained. Aside from the intrinsic proofs of their genuineness to which we have in detail alluded, we think that, had the appellants actually contemplated the fraud which the Supreme Court of the Philippines finds (thereby intending to strengthen their oral testimony by offering in evidence false spirit tablets), it would be against all reason to suppose that they would not, at least, have had all three uniform in arrangement and presenting the same general appearance, instead of having the first two only conform in this regard, and the third (that erected to Sy Bi Git and his wife) consist of two separate inscriptions—one to the husband, the other to the wife.

In closing this subject, we may state that we have literally followed the words of translation used by the interpreter, Li Ung Bing; but that, where the only question is one of com-

puting from the Chinese year *as given by him* the corresponding Gregorian date, we have referred to the only officially recognized work on the subject of which we have any knowledge, and have accepted it as a higher authority—the Chinese-American Calendar, to which reference has been so often made in this brief. Should any doubt exist as to our correct application of a given cycle year, we may call the court's attention to the fact that the calendar gives the Chinese characters for each year, which may be compared with the corresponding characters in Defendant's "Exhibit A," but which were, *ex necessitate rei*, not reproduced in the record.

In the light of the above facts, which stand as sponsors for themselves, the charges of "falsification" so rashly made sink of their own weight, and we submit that these tablets, constituting as they do conclusive evidence of the relationship of Sy Quia and Yap Puan Niu as man and wife (R., 122), prove, in connection with the rest of the plaintiff's testimony, the fact of the marriage in 1847 beyond refutation, and establish their own authenticity.

In leaving this subject we may refer to another misconception of Mr. Justice Torres, on which he bases a second charge of "falsification" of the tablets, even more unjustifiable than the one we have just analyzed.

It is stated by the court that Li Ung Bing had shown the falsity of the tablets because in his testimony he had stated that when Chinese—

"die out of China no inscription is made at the place of their former residence in China upon such tablets of the fact of their death" (R., 651).

The court, therefore, infers that Sy Quia, having died in Manila, the tablet in question was prepared to supply the lack of documentary proof as to the Chinese marriage. It is interesting to note that the court blundered directly as to what the witness had said. After explaining that the tablets were



kept in the family temple and prepared by the descendants immediately after the death of a parent, in the presence of all relatives and friends, he was asked:

"If a person dies out of China, where is the grave record made?" (he having stated that the grave record was kept inside of the grave)

and in answer he said:

"No record is made in China at all if a man dies out of China" (R., 113).

It v. thus be seen that the witness referred to a grave record which would naturally not be kept where there was no grave, and not at all to the family tablets, which would be kept in the family temple.

#### THE PASSPORT.

The extreme carelessness shown by the Supreme Court of the Philippines in the examination of this case is again illustrated on page 646 of the Record, it being suggested that the plaintiffs are at fault for not having introduced "in evidence the passport required by the legislation then in force, which should and would have been then issued to Sy Quia in order to enable him to leave" the Philippines and to "return to his own" country, the legislation in question being the decree of December 20, 1849, which, as appears on its face, could not have gone into effect until over two years after Sy Quia went to China to get married.

We say nothing of the baselessness of the legal suggestion which would compel the introduction of but one kind of evidence when others might, and in this case did, equally well meet the necessities of the situation. With greater force we might reply that if the trip was not really made, then, supposing a passport would have been necessary, its non-issuance, proven by the defendants, would have destroyed the plaintiffs' case.

## REGARDING THE TESTIMONY OF ANA QUANG SU.

Again, in order to impeach the testimony of several witnesses to the frequent calls made by Sy Quia upon his Chinese wife when she was in Manila, on page 652, the court refers to the testimony of Ana Quang Su, wife of Sy Ty, and says that had these taken place she would have known it, "because said Yap Puan Niu occupied a room adjoining hers in the same house." When we turn to the testimony of the witness referred to we find that she does not say that Yap Puan Niu occupied an adjoining room, but that she was "in a different room altogether, but very close to my room," and this testimony referred only to her location in the house at the time of her second trip, nothing on this point being said as to the first (R., 532).

Mr. Justice Moreland filed a concurring opinion (R., 743-756), but we get from this very little information with regard to the case, and such as we have is of less value. For instance, on page 754 of the Record, he regards it as significant that death had swept away every member of the Chinese family of Sy Quia of that generation, leaving not one to speak in this case, ignoring the fact that Sy Quia's younger brother, Si Hien, is a witness for the plaintiffs, although it is fair to add that he may only have intended to refer to the deaths of Sy Quia's children.

On page 755 is the following in Mr. Justice Moreland's opinion:

"That the testimony offered by the plaintiffs tending to show (a) that Sy Quia visited as his wife Yap Puan Niu on one or two occasions when she was in Manila living at the house of Sy Tay; that he paid her passage to and from China and gave her money and presents; and (b) that the plaintiffs Sy Joc Lieng and Sy Yoc Chay were brought here from China at the request of Sy Quia and their passage paid by him; and that they were lodged at the house of Sy Tay and educated at his (Sy Quia's) expense, is utterly destroyed by the testimony of the wife of Sy Tay,

who says, in effect, that such testimony of plaintiffs is a complete and pure fabrication."

This paragraph is interesting from different points of view. The learned justice gives greater effect to the testimony of one of the wives of Sy Ty than he does to the different items of the testimony of some five witnesses (Lim Pan Ling, R., 408; Sy Qui Quion, R., 450; Sy Siang, R., 466; Sy Yoc Leng, R., 491; Sy Hong Ki, R., 559) and declares the witness as saying in effect that what the others have said was a complete and pure fabrication. The witness said nothing of this kind, either directly or in effect, although, if she is to be believed, the other five have falsified themselves. It is more natural to conclude that she is in error, through ignorance or otherwise, than to believe that wholesale perjury has been committed, particularly when, as indicated, so much of the testimony of these and the other of plaintiffs' witnesses has been confirmed directly and inferentially by the testimony of the defendants.

#### THE TESTIMONY OF SY HIEN.

As a final example of the lengths to which the Supreme Court has gone in drawing hasty and unreliable conclusions of fact not at all sustained by the record, we call attention to the remarks of Justice Moreland, on page 755, concerning the appearance and testimony by Sy Hien, the brother of Sy Quia. He calls him the "main witness of the plaintiffs"—a classification wholly without foundation—accuses him of "many contradictions," not one of which is designated, and says that "his appearance on the stand during his last examination was so suspicious and unsatisfactory (he being in such a state that the court \* \* \* ordered him from the witness stand)" as to strengthen defendant's case. A glance at page 558 shows that the witness was excused, not because his appearance was "suspicious," but because his condition was such that he was unable to give intelligible testimony. His answers were not suspicious merely because

they betokened a want of memory. We feel justified in remarking at a finding by the judge of an appellate court designating as suspicious the *appearance* of a witness on the stand whom he never saw testify, and whose appearance and actions do not, for anything that is contained in the record, seem to have aroused the suspicions of the trial court.

- SY QUIA'S STATEMENT THAT HE WAS SINGLE.

In the foregoing discussion we have touched upon practically all the points referred to in the first, second, third, fourth, fifth, sixth, and eighth assignments of error, but some minor points deserve passing comment. The court asserts rather naively, as evidence of Sy Quia's status as a single man at the time of his marriage with Petronila Encarnacion, the fact that he said he was single. Contemplating marriage, as he evidently was, and living in a country where the ecclesiastical authority would not knowingly have permitted bigamy, of course he made the statement. The suggestion that he was single because the ecclesiastical authorities so believed and certified is, as it seems to us, equally a contention not to be made in a legal tribunal, being, as it was under the circumstances, a summing up of what must be regarded as hearsay evidence. There was no adversary proceeding or judicial proceeding to determine the fact of his status, but merely an inquiry of him and of some of his associates as to whether he was single, and, his first marriage taking place a thousand miles away, the persons informing the ecclesiastical authorities of his status might well have contented themselves by accepting Sy Quia's assurances, and, in fact, with their views relative to the marriage status, would not have conceived that they were doing any wrong in the making of misstatements. Furthermore, the record discloses that Petronila Encarnacion was not at that moment in a position to be too inquisitive, and that there was occasion for the marriage without delay, her first child being born about six weeks after the ceremony (R., 347, 348).

*Sy Quia's Attitude Toward His Chinese Wife and Grandchildren.*

We have perhaps said enough upon the point of the recognition, by Sy Quia, of Sy Yoc Leng and Sy Yoc Chay as his grandchildren, but we will sum up briefly the circumstances in regard to this as follows: The plaintiff's witnesses show that these grandchildren came to Manila at the ages of fourteen and twenty respectively; that they went to the house of their uncle, Sy Ty (R., 440, 477, 486); that they were immediately taken and shown to their grandfather, who received them as grandchildren (R., 478, 482, 486); that he had paid their expenses to come to Manila; that he paid their schooling expenses (R., 426, 429, 439, 486, 490) and their expenses at the house of Sy Ty (R., 429, 479, 490); that he looked after their welfare in every natural respect; that they attended the funeral and performed certain offices there; that Sy Hien recognized them as grandchildren of Sy Quia.

That Sy Quia should have proclaimed the fact to the world, at Manila, would have been most inopportune, having, as he had, a Filipino wife and five children; that even their half brothers may not have known the fact was not at all strange and they may have believed that Sy Ty paid the expenses of these boys, although the evidence clearly shows that the money was furnished to Sy Ty by Sy Quia (R., 479).

Again, with regard to these children we are met with the same peculiar situation as exists with regard to Yap Puan Niu. While Yap Puan Niu's presence in Manila was perfectly well known to Ana Quang Su, witness for the defendants, she and the defendants have at no time explained or attempted to explain their presence or connected it with anybody other than Sy Quia. So with these grandchildren, although several of the defendants knew them personally from practically the time of their arrival in Manila; although Ana Quang Su knew them, the occasion for their

being in Manila, their relationship to any other person is absolutely unexplained by any of the defendants' testimony, which simply puts them in the city as boys, leaves them in the house of a man with whom the defendants are perfectly familiar, and while disputing in general terms the plaintiffs' statement as to their relationship, no explanation of any kind is offered, no attempt is made to account for their presence in a strange city and their importation when youths.

Again, it seems singular that the Supreme Court of the Philippines should have assumed that if the expenses of these boys had been paid by Sy Quia to Sy Ty the fact would have appeared on the books of Sy Ty. This is not at all a natural conclusion. That the purely business matter of buying and selling of merchandise should have its history on the business books of Sy Ty we may readily believe, but that an exclusively family matter, in the conduct of which Sy Quia relied upon the discretion and fraternal regard of his brother, should have so appeared was entirely out of the question. As well might one suppose that the father would keep upon his business books the story of the advances that he made for his sons from day to day. While it is conceivable that he might do this sort of thing, there is no presumption based upon the experience of mankind that this is done in any case. On the other hand, if Sy Yoc Chay had been a mere employee of Sy Ty the payment of wages to him by Sy Ty would have duly appeared on his books, but no attempt to prove this was ever made.

### *The Silence of Yap Puan Niu.*

The court refers, on page 655, to the unexplained silence on the part of Sy Quia's alleged wife, Yap Puan Niu, who might have asserted whatever rights she may have had before the Philippine tribunals as the legitimate wife of Sy Quia, and states that the effect of this silence, in connection with the sworn statement made by Sy Quia before the



ecclesiastical authorities at Vigan prior to his entering into the nuptial contract with Petronila Encarnacion, together with the additional fact of his residence at Vigan in the capacity of a single man, is to "completely overcome and destroy the improvised parol evidence as to the pretended marriage of Sy Quia in China" (page 655).

While this reasoning might well be of force if applied to the case of two women, married under the circumstances of this case, both living in a country where the laws of concubinage are unknown, it has little or no application to the peculiar conditions which characterize this case. Yap Puan Niu was, according to the plaintiffs, duly betrothed to and espoused by Sy Quia under conditions which made her his lawful and only lawful wife or mistress of his establishment by the laws of China. Had the second marriage taken place in China instead of in the Philippines she would have had no cause for complaint or for belief that her place would be or could be in any way supplanted by the second so-called wife. In her opinion, and by the laws of her country, she still remained the lawful wife of Sy Quia in spite of his second marriage, and she undoubtedly retained the belief, backed up by centuries of Chinese custom and recognized usage, that her husband's connection with Petronila Encarnacion was not only justifiable, but natural, and that the latter's relation to Sy Quia was neither more nor less than what it would have been had she resided in China, namely, that of a lawfully acquired concubine. By the unimpeached testimony of many of the Chinese witnesses, Yap Puan Niu's support by her husband was in no way interfered with by the fact of his new alliance (R., 156, 427, 478), nor was that of her grandsons, Sy Yoe Lieng and Sy Yoe Chay, as she by her visits in Manila had doubtless occasion to observe when living in the house of her brother-in-law, Sy Ty. Having apparently nothing to complain of, from her own standpoint at least, in the way of neglect or outraged marriage vows, the mystery of her silence seems removed; and the fact that she did not appeal to the Philip-

pine courts for the recovery of rights the existence of which she never knew and which were not recognized by her own laws does not seem to offer just cause for wonder.

As illustrative of the Chinese point of view on the subject of marriage, we refer to the direct examination of Sy Siang (R., 461-2), wherein the witness distinguishes between the wife in the Philippines and the wife in China, giving the names of each, and also distinguishes between the Chinese and the Philippine grandchildren. The same thing happens in examination of Sy Jong Oan (R., 301).

#### *The Nine Silk Suits.*

Much is said in the opinion of the court below (R., 654) with regard to the fact that the nine silk suits which were put upon Sy Quia at the time of the funeral, and, according to Chinese custom, were to be placed upon the oldest male descendant, were put on one of the Filipino grandchildren, instead of upon one of the Chinese grandchildren, and it is said that this ceremony was conducted under the direction of Sy Hien, who would have caused the suits to be placed upon the Chinese grandchildren had Sy Hien not recognized the Filipino grandchild as the true oldest descendant. The criticism seems to us absolutely without foundation. We have to remember that Sy Quia gave as little publicity as possible, in Manila, during his lifetime, to the fact that there was a Chinese marriage, and that if Sy Hien had taken the steps suggested by the Philippine court it would have meant a family scandal on the occasion of the burial of Sy Quia and have resulted in accomplishing nothing. The presence of the Chinese grandchildren at the funeral was in itself sufficiently indicative of their relationship to the deceased, particularly remembering, as we do, that at one time or another both were present in what is described as a very small room, in which the body of Sy Quia lay.

*Delay in Bringing Suit.*

Mr. Justice Moreland considers that the failure on the part of the plaintiffs to assert their rights for a period of eleven years after the death of Sy Quia affords a very strong presumption against the validity of their claim (R., 764). Sy Quia appears to have died January 9, 1894, and the suit herein was filed June 4, 1905. The explanation for the delay is not difficult. From 1894 until the fall of 1898 the Philippine Islands were under the control of Spain, and the judges were either Filipinos or Spaniards. It was scarcely to be expected, knowing the conditions there prevailing, that a member of an alien race could have hoped for justice in a contest against wealthy members of a mestizo family. Following the cessation of the Spanish control was a period of several years of contest between the natives and the United States Government, when all business was unsettled. When affairs resumed orderly conditions the plaintiffs appear to have gone to their attorneys in the islands and made an arrangement for the prosecution of their claim. These attorneys, who were themselves Americans, were compelled to make long and troublesome investigations, and when these investigations were perfected as far as possible, then within a reasonable time suit was brought.

It is altogether wrong to indulge in a presumption against the plaintiffs because of a delay which under certain circumstances in the United States might have appeared excessive. The explanation for the delay lies, as it seems to us, right on the surface of things and in the political conditions prevailing.

But, after all, this is not a case for assumptions and presumptions on the part of the court. We have produced such clear evidence of the marriage in China as renders them valueless. Doubtful presumptions may not prevail against clearly proven facts.

*The Five Thousand Peso Marriage Gift.*

The judge of First Instance found "that when Vicente Romero Sy Quia and Petronila Encarnacion were married Sy Quia had some property, and later Petronila Encarnacion appears to have brought into the marriage contract five thousand pesos" (R., 581). Mr. Justice Torres, speaking for the majority, states that, while at the time of the marriage Sy Quia was a mere clerk with a salary of two hundred pesos a year—

"on the other hand, there is evidence in the record to the effect that Petronila Encarnacion, who belonged to a wealthy family of Vigan, brought to the marriage as a gift from her parents the sum of P5,000 which, together with their common labor and industry, was the basis of the fortune accumulated by both husband and wife in the course of years" (R., 656).

Mr. Justice Moreland, concurring, speaks as follows:

"In this case the Filipino wife, Petronila Encarnacion, was the financier of the family. She was the one who brought to the marriage the capital which was the corner-stone of the subsequent business structure. She was born of a business family who had accumulated wealth. On her marriage with Sy Quia she received a portion of that accumulation" (R., 743).

What significance was attributed to the alleged bringing of this marriage portion by Petronila Encarnacion, except that it tends to establish the existence of an equity in the descendants of the Filipino wife, does not appear. It suffices to say that both courts erred in finding that Petronila brought five thousand pesos or any part of it to the marriage contract, a fact which is established beyond all doubt by this record, by the assertion of her own attorneys employed in distributing the property left by Sy Quia (R., 51), and supported by her ratification of their report and inventory (R., 101).

In concluding this discussion of the foregoing assignments of error, we submit that the testimony offered by the plaintiffs in error and appellants in this case is not impeached in one single particular by the evidence in rebuttal offered by the defendants in error and appellees; that the various contentions made, both in the majority and concurring opinions, alleging the existence of inherent weakness and improbability in that testimony, finds no justification either in reason or in the record, and that finally the Supreme Court erred in rendering its decision reversing the finding of fact made by the judge of the Court of First Instance, inasmuch as its power to do so is limited to cases where the finding of the court below is "against the preponderance of the evidence" (Mr. Justice Moreland (R., 755), Mr. Justice Johnson (R., 672), section one, act 1596, Philippine Commission), which is not the case here.

## II.

7. *The court erred in finding and deciding that the second marriage would prejudice a prior legal wife and prior legitimate children so as to give all of the property acquired by the guilty spouse to the second wife and her children and to disinherit the first wife and her children.*

8. *The court erred in finding and concluding as follows: "Second. That, even assuming that Sy Quia actually married Yap Puan Niu in 1847, and that the second marriage with Petronila Encarnacion in 1853 is therefore void, Sy Quia having contracted this second marriage in bad faith by concealing the fact that his former wife was still living, his half of the property of the conjugal partnership between him and his second wife, who married him in good faith, was forfeited by operation of law in favor of his said second wife, for although the law recognizes civil effects to a void marriage, it nevertheless deprives the party who married in bad faith of his share in the community property acquired dur-*

ing the existence of the marriage up to the time of its annulment.

"Third. That, as a consequence of the foregoing conclusion and under the same hypothesis, the plaintiffs, as the descendants of Sy Quia by his first marriage, have no right to claim Sy Quia's share in the conjugal property acquired during his second marriage with Petronila Encarnacion, for the reason that, by the express provision of the law, the half of the said conjugal property which would have otherwise belonged to the husband was transmitted to Petronila Encarnacion, together with the other half of the said property to which she was rightfully entitled under the law as the deceived wife.

"Fourth. That Vicente Romero Sy Quia, having become a regular domiciled denizen under the laws above cited by reason of his long residence in this country for more than fifty years, and by reason of the further fact that he married a native woman, established himself in this city with a home of his own, acquired real property, and engaged in business generally, most of the property left by him at the time of his death being real property, the questions raised by the plaintiffs' petition must be determined in accordance with the laws of the Philippines, to which Sy Quia submitted himself when he came to the islands and secured a residence therein, and not in accordance with any other foreign or unknown law.

"Fifth. That, aside from the fact that it does not specifically appear from the record what are the Chinese laws applicable to the issues of this case, there is no proof of the existence of the Chinese laws referred to by the plaintiffs, nor is there anything to show that the books or pamphlets introduced by them in evidence contain any specific laws of the Celestial Empire."

9. The court erred in failing to find and decide, in accordance with article 10 of the Civil Code in force in the Philippine Islands, which provides that legal and testamentary successions, with regard to the order of succession, as well as



*to the amount of the successional rights and to the intrinsic validity of their provisions, shall be regulated by the laws of the nation of the person whose succession is in question, whatever may be the nature of the property and the country where it may be situate, that the person in this case whose succession is in question was a subject of the Empire of China, and that under the laws of China plaintiffs are entitled to the entire estate.*

*The Appellants Are Entitled to Sy Quia's Half of the Community Property.*

According to the opinion of Judge Johnson in the Supreme Court, the plaintiffs, being the descendants of the valid marriage in China, are entitled to one-half of the community property existing at the time of the death of Sy Quia, and which would go to his heirs upon the termination of his attempted conjugal partnership with Petronila Encarnacion. This, we maintain, is the true view of the situation, unless a view more favorable to the plaintiffs be taken, under which they would be entitled to the entire property left by Sy Quia.

The argument may be briefly stated: Sy Quia was validly married in China, and this marriage was never set aside by any judicial proceedings. His only legitimate heirs, therefore, by the laws equally of China and of the Philippines, were the children of that marriage, his wife in China predeceasing him. This right of his legitimate heirs has not been and could not have been taken away from them by Sy Quia, except by some conveyance or will made by him during his lifetime. No such will or conveyance was made.

It is argued, with small measure even of plausibility, by the Supreme Court of the Philippine Islands that Sy Quia's rights in his own property, and therefore the rights of his legitimate heirs, were forfeited by reason of his bigamous marriage, and that his property, therefore, by that fact itself, became the property of Petronila Encarnacion and

her children. To support this most extraordinary theory, there is cited, to begin with, law 16, title 17 of the 7th Partida, which, after denouncing bigamous marriages, proceeds as follows:

"Notorious wickedness is committed by men who knowingly marry twice while their first wife is living, and the same may be said of women who marry twice, knowing that their first husband is still alive. We therefore command that every one who should knowingly enter into such a marriage in any of the manners specified in this law be hence banished to some island for five years, and that he forfeit whatever he may own in the place at which the marriage was performed, and that it be given to his children and grandchildren, if he has any, and if he has no children or grandchildren, one-half of such property should go to the person deceived and the other half to the King's Chamber; and if both parties knew that one of them was married, and willfully married him or her, then both shall be banished, each to a separate island, and the property of either of them who may have no children should go to the King's Chamber" (R., 658).

This law makes the following perfectly clear: First, that if, as in this case, a man already married induces another woman to marry him, the result of his unlawful act, both as to the penalty of banishment and as to the deprivation of property, is to be suffered by him alone, for the law specifically provides that if he has no children or grandchildren one-half of the property shall go to the wife, the other half to be forfeited to the Crown. It is obvious that the law did not intend to have either children or grandchildren deprived of their property rights because of the misdeed of the father or grandfather.

Second. It is further perfectly plain that the term "children or grandchildren" is not limited to the children or grandchildren of the unlawful marriage. This is shown by the provision that if both parties knowingly contracted the

unlawful marriage "*the property of either of them who may have no children*" shall be forfeited to the Crown. The law thus refers in unmistakable terms to the continuing existence of property rights in the children by both sets of descendants, those of the lawful marriage and those of the unlawful marriage, and contains no provision whatsoever which can be cited to sustain the proposition that the amount forfeited by the guilty spouse is to go to the spouse who married in good faith.

The court cites in support of this contention article 1417 of the Civil Code, which provides as follows:

"The conjugal partnership expires on the dissolution of the marriage or when it is declared void.

"The spouse who, by reason of his or her bad faith, caused the annulment, shall not receive any share of the property of the partnership."

It seems plain, however, that this article has no application whatsoever to the case at bar because it presupposes—

(a) That the marriage has been *declared null*.

(b) That the husband caused the annulment by his bad faith.

This article constitutes section 6 of book 4, title 3, chapter 5, of the Code, and is entitled "Concerning the dissolution of the conjugal partnership." It deals solely with the question of such dissolution, and gives as the causes of dissolution (1) the dissolution of the marriage, (2) the annulment of the marriage.

Article 52 provides that "a marriage is dissolved by the death of one of the spouses." Death and annulment constitute the only methods of terminating a marriage under the Civil Code. The only reason assigned in article 1417 for the forfeiture of one-half of the community property is not, as would seem to be understood by Mr. Justice Torres, the contracting of an unlawful marriage in bad faith by one of the spouses, but its actual annulment as the result of the judicial decree of annulment, which brings about, *ipso facto*,

the termination of the marriage contract and renders necessary the distribution of the partnership assets. It is perfectly plain that the marriage partnership does not come to an end except in the case of death or until "it is declared null," and it is perfectly plain that the actual annulment of the marriage, of which the spouse acting in bad faith is the cause, must take place before the provisions of this article can apply. This is necessarily so, because a marriage performed with all the solemnities of law is to be considered as valid and binding until shown to be otherwise by a judicial decree to that effect. As Manresa says (Commentaries on the Civil Code of Spain, vol. I, p. 342):

"In public opinion, in the relations brought into being by the social compact, in daily communication with friends and relatives, a marriage has always existed until the judicial decree has been made known (almost always by its effects) declaring it to be a nullity" (342).

The fact that it might be shown, as here, after the termination of the marriage contract by death, that one of the spouses had entered into that contract in bad faith cannot have the effect of rendering the provisions of this article applicable, for the applicability of the paragraph relied on by Justice Torres looks to the distribution of the partnership property on the dissolution of the conjugal partnership, which has resulted from the issuance of a judicial order declaring its annulment.

Says Scaevola in his Commentaries on the Civil Code (vol. 23, p. 374):

"Now, then, when does the marriage partnership cease to exist by virtue of the nullity of the marriage? On the one hand, article 68 of the Code does not include its termination among the provisional measures to which the presentment and allowance of petitions of annulment gives rise. On the other hand, the termination of legal partnership cannot in law be considered to have taken place until the question

regarding the nullity of the marriage is finally decided. And this is without doubt what article 1417 seeks to express, in providing that the community partnership expires on the dissolution of the marriage, or when it is declared null. 'When it is declared null'—that is, when the annulment is declared."

It was death, not the annulment of the marriage, which in the case at bar put an end to the marriage contract of Sy Quia and Petronila Encarnacion. The marriage having been performed with the requisite solemnities, and its validity under the Spanish law having never been questioned in the lifetime of Sy Quia, and no action for its annulment having been brought during his lifetime, its civil effects must be deemed to have operated with regard to both spouses. Therefore, when Sy Quia died he was entitled to his share in the community property; irrespective of the circumstances under which the marriage was entered into since, as Scaevola and Manresa point out, no question of the nullity of the marriage could arise in law until its annulment was actually decreed.

It is perfectly plain, therefore, that article 1417, construed either alone or in connection with articles 67, 68, 69, 70, 71, and 72 (contained in section 5, book 1, title 4, of the Code, entitled "Of the effects of the annulment of marriage and those of divorce"), has no application whatsoever to conditions presented by the case at bar, namely, where there are two innocent wives married to one and the same man.

We apologize to the court for having given such serious consideration to the refutation of a proposition as extraordinary as that which is contended for by the Supreme Court of the Philippines on this point, and merely state that our reason for so doing was the tone of finality adopted by Justice Torres in claiming the applicability of article 1417 to the case at bar. That his position is wholly unfounded is made apparent by the only authoritative expression of Spanish commentators on the exact point we have been able

to find, as well as numerous adjudications to the same effect, based on the same state of facts, rendered by courts in this country in decisions based upon the Spanish law applicable to cases such as this.

Paz, in his 61st Consulta, class 9, states the law as follows in a case identically the same as the present:

"Out of the acquets and gains the debts must be paid because what the parties own during the marriage cannot form a part of the acquets and gains, and belongs to the creditors. THE BALANCE, AFTER PAYING THE DEBTS, MUST BE DIVIDED BETWEEN THE TWO WIVES, WITHOUT ANY PORTION OF IT GOING TO THE SUCCESSION OF THE HUSBAND. The reason of this is that by the laws of this realm, ONE-HALF OF THE ACQUETS AND GAINS BELONGS TO THE FIRST WIFE, although they have been made by the husband. Lib. 5, Nueve Recopilacion, tit. 9, 1, 1-6. And although the second law of this title requires the cohabitation of the wife with the husband, in order that she be entitled to her share, yet as the marital cohabitation has not failed through her fault, but, on the contrary, through the fault of her husband, who abandoned her, she is not to lose her rights on account of the fault and misconduct of her husband. *Imputari no debet ei per quem not stat, non faciat quod per eum fuerat faciendum.* De Reg. Jur. 6, reg. 41.

"TO THE SECOND WIFE THE OTHER HALF IS DUE, because by virtue of her good faith at the time of her marriage, she is reputed a lawful wife, for the same reason for which the law recognizes her issue as legitimate. This is affirmed by Covarruvias in Epit. p. 2, cap. 7, sect. 1, no. 7; Antonio Gomez, l. 50 de Toro, no. 77, and Molina de Just. tract. 2 disp. 433; who all agree that it is the common opinion of the doctors of the law that a woman, marrying in good faith, although the marriage may be null, is entitled to one-half of the acquets and gains. FROM WHICH IT RESULTS THAT ONE-HALF GOES TO EACH OF THE WIVES, AND THAT THE HUSBAND DECEIVING THE SECOND AND DOING A GRIEVOUS WRONG TO THE FIRST, REFUSES UNJUSTLY TO EITHER THE SHARE WHICH BELONGS TO HER: AND THAT HE IS BOUND TO SATISFY BOTH OUT



OF EVERYTHING HE POSSESSES, BECAUSE THE LAW FAVORS THOSE WHO ARE DECEIVED AGAINST THOSE WHO DECEIVE THEM. *Cum deceptis et non decientibus jura subveniunt.* IN TAKING FROM THE FATHER'S SUCCESSION THOSE ACQUETS AND GAINS, NO WRONG IS DONE TO THE INHERITANCE OR THE LEGITIMATE PORTION OF HIS CHILDREN, BECAUSE THIS 'S A JUST DEBT WHICH HE OWES TO HIS TWO WIVES, AND THE THING WHICH THE FATHER OWES IS NOT INHERITED BY HIS CHILDREN, BUT TAKEN BY HIS CREDITORS, AS THEIR OWN."—Paz, *Consultas Varias*, pp. 483-4.

(Cited in *Patton vs. Philadelphia*, 1 La. An., 98.)

To the same effect are:

*Clendenning vs. Clendenning*, 7 Martin's Rep. (La.), 587.

*Lee vs. Smith*, 18 Tex., 142 (1856).

*In the Succession of Navarro*, 24 La. An., 298 (1872).

*Harrington vs. Barfield*, 30 La. An., 1297 (1878).

*In the Succession of Taylor*, 39 La. An., 823 (1827).

*Barkley vs. Dunke*, 99 Tex., 150-153.

*Lawson vs. Lawson*, 30 Tex. Civ. App., 43.

*Allen vs. Allen*, 105 S. W., 54.

*Railway Co. vs. Robertson*, 121 S. W., 202.

*Chapman vs. Chapman*, 16 Tex. Civ. App., 383.

*Routh vs. Routh*, 57 Tex., 589.

*Hubbell vs. Inkstein*, 7 La. Ann., 252.

*Morgan vs. Morgan*, 1 Tex. Civ. App., 315.

*Abston vs. Abston*, 15 La. Ann., 137.

*Smith vs. Smith*, 45 La. Ann., 1140.

*Jerman vs. Tenneas*, 44 La. Ann., 620.

In addition to the foregoing cases cited above and relied upon by Justice Johnson in his dissenting opinion, we beg to invite the court's attention to the well-considered cases of *Johnson vs. Johnson's Administrator*, 30 Mo. St., 72, and of *Connolly vs. Woolrich*, 11 Low. Can. Jur., 197. The

latter case presents features startlingly similar to the case under consideration. In that case the question up for discussion was the validity of the marriage of a native of Lower Canada to a Cree woman, this marriage having been celebrated in accordance with the rites and ceremonies of the tribe of the woman, and having been followed by cohabitation and offspring. These rites and ceremonies and the customs of the tribe admitted of polygamy and voluntary divorce. The husband took his Indian wife to Lower Canada after a number of years of cohabitation with her, and there cast her off and married a Canadian woman. The question came up between the offspring of the two marriages as to their rights in the estate of their deceased father. The doctrine adopted by this court was that adopted by the Louisiana courts and by this court in the cases above cited. We do not believe that there is a court in this country which has or would visit upon the legitimate first wife and her legitimate children a penalty prescribed against the sinning husband for his bigamous act.

### III.

10. *The said court erred in failing to find and decide that each wife was entitled to one-half of the property acquired during the second marriage, and that for the purposes of distribution of said property the wives were each regarded as legitimate in law, and that the children of each marriage succeed to the interest which their respective mothers obtain from the common husband, together with the rents and profits, if the second marriage was entered into in good faith on the part of the wife, and if the law applicable to citizens of the Philippine Islands should be applied to the distribution of the said estate.*

It is undoubtedly true that the laws of the Philippine Islands do not affirmatively cover such a situation as exists

in this case, and yet we are not without some guide as to the determination of the question before the court. The children resultant upon a bigamous marriage, where one of the spouses believes himself or herself validly married, are legitimate. In this case Petronila Encarnacion, so far as the record is concerned, believed she was validly married. There did exist what we may consider to have been a conjugal partnership. Although there was no right of inheritance in these children from Sy Quia, it may be argued that there was a right of inheritance in the results of the partnership, so far as the share of Petronila Encarnacion was concerned. In other words, her children might be regarded as justly entitled to receive one-half of the property belonging to the partnership at the time of Sy Quia's death, plus the sum of five thousand pesos inherited by her during the existence of the partnership. The rest of the community property belonged to Sy Quia, and had he outlived Petronila he would have had it, and it would have gone to his legitimate heirs. Not outliving her, but being his property nevertheless, it goes to his legitimate heirs, who are the plaintiffs in this case.

#### IV.

11. *The said court erred in finding that the second wife, Petronila Encarnacion, and the persons holding under her, were entitled to any of the property belonging to the estate of Vicente Romero Sy Quia.*

12. *The said court erred in discharging the receiver.*

We have stated at sufficient length already our position with regard to the descent of what may, for convenience, be termed the community property of Sy Quia and Petronila Encarnacion, and we are, therefore, relieved from a further discussion of the eleventh assignment of error.

If, as we believe, we are entirely correct in the positions we have taken relative to the facts of this case and the law

applicable thereto, it would follow that the twelfth assignment of error must be sustained, the discharge of the receiver being a consequence of the other errors indulged in by the Supreme Court of the Philippine Islands.

## V.

*Conclusion.*

In concluding we respectfully allege:

1. That the facts as found by the Court of First Instance of Manila were not against the preponderance of the evidence, but, on the contrary, the evidence was wholly sufficient to justify its findings.

2. That the appellants are entitled to one full half of the community property existing on the dissolution by death of the marriage of Sy Quia and Petronila Encarnacion, together with the rents, profits and interest thereon.

We, therefore, request that the decision of the Supreme Court of the Philippines be reversed.

Respectfully submitted,

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[20010]

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# INDEX.

	Page
Statement . . . . .	1
Argument . . . . .	4
I. Has this court jurisdiction to consider the appeal in this case? . . . . .	4
II. The writ of error . . . . .	21
III. The facts . . . . .	22
Presentation of facts . . . . .	22
Plaintiffs' evidence . . . . .	28
The tablets . . . . .	46
Defendants' evidence . . . . .	62
Sy Quia was in Vigan and not in China in the years 1847-50 . . . . .	63
Was Sy Quia single when he married Petronila Encarnacion? . . . . .	68
Yap Puan Niu's visit to Manila . . . . .	79
Did Sy Quia recognize Yap Puan Niu as his wife? . . . . .	80
Who are the plaintiffs in this case? . . . . .	81
The adoption of Sy Yoc Chai . . . . .	82
The nine silk suits . . . . .	82
Sy Quia never acknowledged any relationship between himself and the plaintiffs . . . . .	83
Criticism of counsel on the court below . . . . .	86
IV. Even if the Chinese marriage was proven, plaintiffs cannot recover any part of the estate under the law . . . . .	86
V. Conclusion . . . . .	92

## LIST OF CASES CITED.

<i>Etna Life Insurance Co. vs. Ward</i> , 140 U. S., 91 . . . . .	13
Act of Congress of July 14, 1832, section 3 (4 Stats., 600) . . . . .	13
Act of Congress of July 1, 1902, section 10 . . . . .	9, 14, 20
Act 1596 of the Philippine Commission, section 1 . . . . .	20
<i>Armstrong's Foundry</i> , 6 Wall., 766 . . . . .	12
<i>Behnmeyer vs. Campbell</i> , 205 U. S., 403 . . . . .	13, 19, 21
<i>Bevins vs. Ramsey</i> , 11 How., 185 . . . . .	12
<i>Blaine vs. Ship Charles Carter</i> , 4 Dallas, 22 . . . . .	12
<i>Bondurant vs. Watson</i> , 103 U. S., 278 . . . . .	12
<i>Brewster vs. Wakefield</i> , 22 How., 118 . . . . .	12
<i>Brooks vs. Norris</i> , 11 How., 204 . . . . .	12

	Page
<i>Bucklin vs. United States</i> , 159 U. S., 680.....	13
<i>Bull of Gregory XIII</i> , "Populis ac nationibus" of January 25, 1585 .....	77
<i>Burrows vs. The Marshall</i> , 15 Wall., 682, 684.....	12
<i>Chinese-American Calendar</i> .....	51
<i>Civil Code of the Philippine Islands</i> , article 177.....	82
Article 348.....	16
Article 1407.....	91
Article 1417.....	91
Rule 3, Transitory provisions.....	89
<i>Code of Procedure of the Philippine Islands</i> , section 334, No. 5 .....	42, 70, 74
<i>Code of Civil Procedure for the Philippine Islands</i> , section 285.....	71
<i>Comstock vs. Eagleton</i> , 196 U. S., 100.....	13
<i>Constitution of United States</i> , article 3, section 2.....	11
7th Amendment.....	11
10th Amendment.....	11
<i>Decree of the Governor-General of the Philippine Islands of August 31, 1839</i> , articles 18 and 19.....	73
<i>Decree of the superior government of the Philippine Islands, July 6, 1827</i> .....	73, 74
<i>Decree of the superior government of the Philippine Islands, December 20, 1849</i> .....	74, 88
<i>De Land vs. Platte County</i> , 155 U. S., 221.....	13
<i>De La Rama vs. De La Rama</i> , 201 U. S., 303.....	13, 19, 21
<i>Dower vs. Richards</i> , 151 U. S., 658.....	13
<i>Elliot vs. Toepfner</i> , 187 U. S., 334.....	13, 21
<i>Ellis vs. Davis</i> , 100 U. S., 485.....	8, 12, 17
<i>Gaines vs. Chew</i> , 2 How., 647.....	16
<i>Gainza, Francisco</i> : "Faculties of Bishops Beyond the Sea"....	76, 78
<i>General Orders No. 58</i> .....	73
<i>Graham vs. Bayne</i> , 18 How., 60.....	12
<i>Hecht vs. Boughton</i> , 105 U. S., 235.....	12
<i>Horn vs. Noel</i> , 1 Camp., 61.....	70
<i>Jones vs. La Vallette</i> , 5 Wall., 79.....	11
<i>Judiciary Act of 1789</i> .....	11
<i>Judiciary Act of March 3, 1803</i> , section 2.....	14
<i>Kahn vs. Hamilton</i> , 108 U. S., 15.....	12
<i>Las Siete Partidas (Louisiana)</i> , Moreau and Carleton (1820), Volume II, page 1223.....	91
<i>Laws of the State</i> , 203, 205, 206, and 207.....	91
<i>Laws of Toro</i> , 14, 15, 16, 77; and 78.....	91
<i>Louisiana Code</i> , articles 4, 12, and 43.....	16, 18
<i>McCullom vs. Eager</i> , 2 How., 61.....	12



# INDEX.

iii

Page

Martinez <i>vs.</i> International Banking Corporation, 220 U. S., 214.	13, 20
Miles <i>vs.</i> United States, 103 U. S., 304.	21
Minor <i>vs.</i> Tillotson, 2 How., 392.	12
Moss <i>vs.</i> Smith, 1 M. & G., 228; E. C. L., 425.	70
National Live Stock Bank <i>vs.</i> First National Bank, 203 U. S., 305.	13
Novísima Recopilación, Book 10, Law 4, title 4.	91
Oklahoma City <i>vs.</i> McMaster, 196 U. S., 529.	13
Ordenanzas Reales de Castilla, Book 5, title 4.	91
Ormsby <i>vs.</i> Webb, 134 U. S., 47.	12, 18
Parish <i>vs.</i> Ellis, 16 Pet., 451.	12, 14
Parsons <i>vs.</i> Bedford, 3 Pet., 447.	12, 12
Partida 4th, Law 1st, title 13.	87
Partida 4th, Law 3d, title 3.	87
Partida 4th, Law 3d, title 10.	72, 75
Partida 7th, Law 16, title 17.	89, 91, 92
Patton <i>vs.</i> Philadelphia, 1 La. An., 98.	91
Paz's 61st Consulta.	90, 91
Philippine Government Act of July 1, 1902, section 10.	20
Sarchet <i>vs.</i> United States, 12 Pet., 143, 144.	12
Sharp <i>vs.</i> Knox, 2 La., 23.	17
Solita 11th.	76
Strong <i>vs.</i> Repide, 213 U. S., 419.	13, 19, 21
Surget <i>vs.</i> Lapice, 8 How., 48.	12
Thompson <i>vs.</i> R. Co., 6 Wall., 134.	12
United States <i>vs.</i> C. A. Wilson, 118 U. S., 86.	18
United States <i>vs.</i> Emholt, 105 U. S., 235.	12
United States <i>vs.</i> Halley, 118 U. S., 233.	12
U. S. Express Co. <i>vs.</i> Kountze Ross, 8 Wall., 342.	21
United States Revised Statutes, section 705.	18
U. S. <i>vs.</i> Union Pacific R. R., 105 U. S., 263.	12
Van Northen <i>vs.</i> Morton, 99 U. S., 378.	12
Walker <i>vs.</i> Drevelle, 12 Wall., 440.	12, 13, 15
Ward <i>vs.</i> Gregory, 7 Pet., 633.	12
Wiscart <i>vs.</i> D'Auchy, 3 Wall., 321.	12, 21



IN THE  
SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

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No. 177.

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SY JOC LIENG, SY JOC CHAY, SY JUI NIU, AND C. W.  
O'BRIEN, AS GUARDIAN FOR SIEN HAN, APPELLANTS  
AND PLAINTIFFS IN ERROR,

vs.

GREGORIO SY QUIA ET AL.

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APPEAL FROM AND IN ERROR TO THE SUPREME COURT OF  
THE PHILIPPINE ISLANDS.

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**BRIEF FOR DEFENDANTS IN ERROR AND  
APPELLEES.**

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**Statement.**

This case has been brought here from the Supreme Court of the Philippine Islands both by appeal and by writ of error. It seeks to review a judgment of the Philippine Supreme Court holding the appellees to be the legal heirs of

one Sy Quia, a Chinaman who died in Manila in 1894, leaving an estate valued at about a half million dollars, American money, which estate has been in possession of the appellees, as the heirs at law of the deceased, ever since his death in the year 1894 aforesaid. The present law-suit was begun June 4, 1905,\* by petition to the Court of First Instance of Manila, the appellants here being the plaintiffs in said petition, and the appellees here the defendants therein. The material, practically undisputed, facts are, briefly, as follows:

The deceased intestate, Sy Quia, was born in China in 1822, or thereabouts. He emigrated to the Philippine Islands when about 12 years of age, married a Filipino woman there in 1853, according to the rites of the Roman Catholic Church and the laws of the Philippine Islands, and lived with her thereafter, in said Islands, in the bonds of matrimony until the date of his death in 1894. Dying in-

testate in the year last named, he left the large estate which is the subject-matter of this litigation. Five children were born of the marriage. After the death, in 1894, of the husband and father, Sy Quia, his estate was legally divided among the heirs in due course, according to the Spanish laws and customs. The widow and children, or persons claiming under them, remained in quiet, peaceable, and uninterrupted possession of the property so inherited from the death of the intestate husband and father in 1894 until the year 1905, when the present suit was formally instituted in the Court of First Instance at Manila in December, 1905.

To the foregoing summary of what we have termed the practically undisputed facts of this case, must now be added a summary of the additional facts alleged in the original petition in the trial court below. In the original petition, filed June 4, 1905 (Rec., pp. 1-5), the plaintiffs, who are

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\*The summons in this case, however, was not issued until the 4th day of December, 1905.

the appellants here, set forth their cause of action against the defendants, who are the appellees here, namely, the above-mentioned widow and children, claiming title to the whole of the estate of the deceased Chinaman, Sy Quia. They base their claim on a marriage alleged to have been contracted by the deceased, Sy Quia, with a Chinese woman, in the year 1847, fifty-eight years before the filing of their petition, in China, the plaintiffs claiming to be descendants of two children alleged to have been born of the supposed marriage with the Chinese wife. In other words, the original petition in this case is predicated upon a post-mortem unearthing of a marriage alleged to have occurred in the early youth of the deceased intestate, prior to his marriage in the Philippines, and the gravamen of the petition is that the plaintiffs, as descendants of the issue of the said Chinese marriage, are the heirs at law of the deceased. The trial court, the Court of First Instance at Manila, found in favor of the plaintiffs, the Supreme Court of the Philippines reversed the trial court and found in favor of the defendants, and the case is here for final adjudication, having been brought here both by appeal and by writ of error.

## ARGUMENT.

### I.

#### Has This Court Jurisdiction to Consider the Appeal in This Case?

An inspection of the original petition (Rec., pp. 1-5) is all that is needed to show that this case is not only essentially, but beyond all possibility of even plausible dispute, *an action at law*, brought by claimants claiming as heirs at law, and standing squarely on their alleged legal rights as such heirs.

The petition was filed on June 4, 1905 (Rec., p. 5). For the purpose of throwing light on the essential nature of the case, that is to say, whether it is an action at law or an equity cause, the following analysis of the petition is now respectfully submitted:

Paragraph I alleges that on or about the year 1823 the deceased intestate Sy Quia was born in China.

Paragraph II alleges that about 1847 he was married in Amoy, China, to a certain Chinese woman, whose name we may abbreviate for convenience to the single word "Yap;" and that thereafter Sy Quia and Yap "were and continued to be" husband and wife.

Paragraph III alleges that two male children were born of this marriage, to wit, Sy Bibo and Sy Biguel, and that these two thus "became and were" the only legitimate children and heirs at law of their father, the deceased intestate, Sy Quia.



Paragraph IV alleges that about 1882 Sy Bibo died intestate in China, leaving as his heirs at law two legitimate children, naming them.\*

Paragraph V alleges that about 1880 Sy Biguel also died intestate in China, also leaving as his only heirs two children, naming them.†

Paragraph VI alleges that about 1891 Sy Quia's Chinese wife Yap, the mother of Bibo and Biguel, also died intestate.

Paragraph VII alleges that about 1894 Sy Quia himself died intestate in the city of Manila, and that his descendants born of the supposed Chinese marriage, that is to say, the plaintiffs, "at the time of his death became, ever since have been and are now his only legitimate descendants and heirs at law."

Paragraph VIII alleges that in his lifetime Sy Quia acquired a large estate, consisting of real and personal property, situated in the Philippine Islands, a great part of which was situated in the city of Manila, and that the estate is of the approximate value of one million pesos, Philippine currency (equivalent to five hundred thousand dollars American money).

Paragraph IX alleges that after the death of Sy Quia the defendants, and each of them, unlawfully, without right and in the absence of the plaintiffs, and each of them, took possession of all and every part of the real and personal property of the said Sy Quia, and that defendants, and each of

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\* The trial developed that these two children were supposed to have been a boy and a girl, and that the latter married, and died, leaving a minor son who, by his guardian, is one of the plaintiffs.

† Also supposed to have been a boy and a girl.

them, have ever since been in possession of the estate left by the said Sy Quia.

Paragraph X, stripped of its superfluous verbiage, alleges, in effect, that the defendants have been in possession of the estate ever since Sy Quia's death, and have been acting as if they owned it.

Paragraph XI is the first paragraph of the petition that attempts to make the case look like an equity case. It gives a partial inventory of the real and personal property belonging to the estate sued for, and says plaintiffs "have been unable to discover" all of it, because the title deeds and other documents are in the possession of the defendants. It will be seen further on that this paragraph is regarded by the plaintiffs as laying the foundation for a prayer for "discovery." Under the Code of Practice in the Philippines there are no separate courts of law and equity. The practice under American rule has been substantially identical with that which prevails in what are known in this country as "code" States. This at once suggests that the equitable doctrine of "discovery" has no application, because the defendants could be put on the witness stand and examined under oath.

Paragraph XII seems to have no special object. It merely repeats a previous statement, above noted, showing how much the plaintiffs think the property they are after is worth.

Paragraph XIII reiterates that the plaintiffs are the only legitimate heirs at law of the deceased, and that as such they are entitled to the estate. A faint attempt is injected at the conclusion of this paragraph to give the case an equitable tinge by the statement that the defendants have "converted" the property of the deceased to their own use.

Paragraph XIV merely reiterates and enlarges upon the idea that the defendants, ever since the death of Sy Quia, "have been, and are now, appropriating to their own use and benefit all the rents and profits of the property of the estate of the said Sy Quia, deceased." They then reiterate that the property does not belong to the defendants, but to the plaintiffs, and that as it is in the possession of the defendants it is impossible for the plaintiffs to "discover" the amount of the rents and profits which the defendants get from the estate, and upon this showing, substantially, without further material allegations than those already indicated, the plaintiffs have the temerity to suggest the desirability of the appointment of a receiver for the estate.

Paragraph XV alleges that the estate "has been and is being sold incumbered and converted by the defendants, and each of them, and there is danger" of loss, etc., and "irreparable injury and prejudice to the plaintiffs," unless a receiver be appointed. It will be noted that there is no charge of insolvency, or of fraud, accident or mistake, or anything of that sort. The gravamen of the text of this paragraph is simply that the defendants are in possession of the estate and acting as if they were the owners, which they claim to be.

Paragraph XVI alleges that, in order to protect the interest of the plaintiffs, it is "necessary" that the defendants be required to give a detailed accounting of the real and personal property of the estate, and of the rents and profits, and that "discovery on oath" be obtained from them.

This last paragraph concludes the allegations of the petition and is immediately followed by certain prayers. As already foreshadowed, these prayers pray for "discovery," "accounting," and for a receiver. The rest of the prayers simply ask, in effect, that the title of the estate be adjudged

to belong to the plaintiffs as the heirs at law, and that possession be awarded to them accordingly. It will, of course, be borne in mind that the foregoing analysis of the petition is expected to be read in connection with the petition itself, which petition is found at pages 1-5 of the record. Our analysis of the petition does not pretend to be a literal reproduction of all of its allegations. Obviously, the prayers of the petition cannot give it any virtue not previously imparted to it by its substantial allegations. For instance, this court has held that—

"When a party has a right of possession which he can enforce at law, his right to the rents and profits is also a legal right and must be enforced in the same jurisdiction. The instances where bill for an account of rents and profits have been maintained are those in which special grounds have been stated to show that the courts at law could not give a plain, adequate and complete remedy. No instances exist where a person who had been successful at law has been allowed to file a bill for an account of rents and profits during the tortuous possession held against him, or in which the complexity of the account has afforded a motive for the interposition of a court of chancery to decide the title and to adjust the account."

*Ellis vs. Davis*, 109 U. S., 485; 27 L. Ed., 1008.

It is true also that plaintiffs ask for discovery, but what kind of discovery? Is it the discovery of facts which are exclusively within the knowledge of the defendants and which are necessary and indispensable to give them a right to prosecute this action? Is not the discovery prayed more in the nature of an accounting that would have been granted if the plaintiffs had proven their title as heirs at law of the deceased *Sy Quia*? The mere fact that an equitable remedy is asked in the complaint does not make the character of the action such as to entitle a court of equity to take jurisdiction.

The fatal objection to plaintiffs' petition is that it is in

fact an attempt to give to an action of ejectment the semblance of a bill in equity. "The hand is the hand of Esau, but the voice is the voice of Jacob." Both the parties litigant in this case claim to own the legal title, and the defendants are in possession. The issue thus raised can only be tried in an action at law. The decree of the court below is the equivalent of a judgment of a court of law in an action of ejectment, namely, that plaintiffs recover possession of the premises, and also of the judgment of a court of law in an action of trespass for *meane profits*, that he recover such rents and profits. There are no averments in the bill which disclose any grounds of equity jurisdiction. There is no vestige of equity in the petition, nothing but the claim that the plaintiffs are the legal heirs of the deceased, and that, as such, they are entitled to the property sued for. It is clearly a case which, if instituted in a Federal court, must have been brought on the law side of the court and tried before a jury.

We respectfully submit that this court is without jurisdiction to entertain the appeal in this case, because the case is an action at law, and under the provisions of section 10 of the act of Congress of July 1, 1902, known as the Philippine Government Act (32 Stats., 691, 695), conferring appellate jurisdiction on this court over the Supreme Court of the Philippine Islands, the judgment of that court now sought to be reviewed here can be reviewed here by writ of error only, and not by appeal.

Section 10 of the act of Congress of July 1, 1902, known as the Philippine Government Act (32 Stats., 691, 695), is as follows:

"That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which

the value in controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and *such final judgments or decree may and can be reviewed, revived, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the circuit courts of the United States.*"

It was thus the plain and express intent of Congress that in exercising appellate jurisdiction over the Supreme Court of the Philippine Islands the distinction between causes legal and equitable in their nature should be observed, and that cases should be brought here by writ of error if the cause of action was legal in its nature, and only by appeal if of equity, admiralty, or maritime jurisdiction. In other words, the whole body of the law and procedure governing review by this court of final judgments and decrees of the circuit courts of the United States is by this act made applicable, as far as practicable, to the jurisdiction of this court in reviewing final judgments and decrees of the Supreme Court of the Philippine Islands.

It is as true of ideas expressed in laws as of ideas expressed in human conduct that they can be better understood if we trace the pedigree of the agency through which they are expressed. Therefore let us very briefly trace the origin and development of the appellate jurisdiction of this court from the beginning down to the Philippine Government Act of 1902, above quoted, confining the inquiry, however, to matters distinctly tending to illustrate the case at bar, and the question of whether this court will or will not entertain the appeal in this case.

The article of the Constitution of the United States creating the Judicial Department of the Government (article



III) recognizes the distinction between legal and equitable causes of action, and reminds us that that distinction was as familiar to the lawyers of that day as it has been ever since. Section 2 of the article in question reads:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States," etc.

The Seventh Amendment to the Constitution provided that the right of trial by jury should be preserved "in suits at common law," and added:

"No fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law."

The Tenth Amendment to the Constitution jealously provided:

"The powers not delegated to the United States by the Constitution \* \* \* are reserved to the States, respectively, or to the people."

Inasmuch as there is no question of States' rights in this case, there remains only the inquiry as to what powers, relatively to the subject-matter in hand, have been vested in this court, since the Constitution, over the inferior courts which Congress has since seen fit to "ordain and establish."

Originally, no case whatever could be brought here by appeal. The judiciary act of 1789, creating this court, specifically limited its appellate jurisdiction to writs of error; and it was not until 1803 that jurisdiction by appeal, in certain specified cases, was superadded to the jurisdiction originally conferred by the act of 1789. Says Chief Justice Chase, in *Jones vs. La Vallette*, 5 Wallace, 79, decided in 1866:

"The judiciary act of 1789 gave appellate jurisdiction to this court by writ of error, and it was held that under that act no cause could be brought here by ap-

peal. *Blaine vs. Ship Charles Carter*, 4 Dallas, 22. The act of 1803 gave appellate jurisdiction by appeal 'from final judgments and decrees in cases of equity, of admiralty, and maritime jurisdiction, and of prize, or no prize.' *No other cases can be brought here in this mode*, and the case in the record is of neither class. It must come here, if at all, upon writ of error."

It has been the uniform construction of this court that cases at law could only be brought up from the inferior Federal courts on writs of error and were not subject to review upon appeal:

*Wiscart vs. Dauchy*, 3 Dall., 321.  
*Sarchet vs. United States*, 12 Pet., 143, 144.  
*Parsons vs. Bedford*, 3 Pet., 447.  
*Ward vs. Gregory*, 7 Pet., 633.  
*Parish vs. Ellis*, 16 Pet., 451.  
*McCullom vs. Eager*, 2 How., 61.  
*Minor vs. Tillotson*, 2 How., 392.  
*Surget vs. Lapice*, 8 How., 48.  
*Bevins vs. Ramsey*, 11 How., 185.  
*Brooks vs. Norris*, 11 How., 204.  
*Graham vs. Bayne*, 18 How., 60.  
*Brewster vs. Wakefield*, 22 How., 118.  
*Thompson vs. R. Co.*, 6 Wall., 134.  
*Armstrong's Foundry*, 6 Wall., 766.  
*Walker vs. Dreville*, 12 Wall., 440.  
*Burrows vs. The Marshall*, 15 Wall., 682, 684.  
*Van Northen vs. Morton*, 99 U. S., 378.  
*Hecht vs. Boughton*, 105 U. S., 235.  
*U. S. vs. Union Pacific R. R.*, 105 U. S., 263.  
*Bondurant vs. Watson*, 103 U. S., 278.  
*United States vs. Emholt*, 105 U. S., 416.  
*Kahn vs. Hamilton*, 108 U. S., 15.  
*Ellis vs. Davis*, 109 U. S., 485.  
*United States vs. Hailey*, 118 U. S., 233.  
*Ormsby vs. Webb*, 134 U. S., 47.

- Ætna Life Insurance Co. vs. Ward*, 140 U. S., 91.  
*Dower vs. Richards*, 151 U. S., 658.  
*De Land vs. Platte County*, 155 U. S., 221.  
*Bucklin vs. United States*, 159 U. S., 680.  
*Elliott vs. Toeppner*, 187 U. S., 334.  
*Comstock vs. Eagleton*, 196 U. S., 100.  
*Oklahoma City vs. McMaster*, 196 U. S., 529.  
*National Live Stock Bk. vs. First National Bk.*, 203 U. S., 305.

See also, for the Philippine Islands, the case of *Behn vs. Campbell*, 200 U. S., 611, where this court dismissed an appeal on the ground that the case was an action at law, and therefore not reviewable by appeal, citing the cases of *Walker vs. Dreville*, *De Land vs. Platte Co.*, and *Comstock vs. Eagleton*, *supra*. See also, from the Philippines, *Martinez vs. International Banking Corporation*, 220 U. S., 214. The cases of *De La Rama vs. De La Rama*, 201 U. S., 303, and *Strong vs. Repide*, 213 U. S., 419, were peculiarly cases of equitable jurisdiction and cannot be construed to overrule all the previous decisions of this court concerning the distinction between appeal and writ of error.

All the American colonies which made up the thirteen original States of this Union had the law of England as the basis of their jurisprudence. The first period at which this court came to deal with cases coming up from territory acquired from Spain was after the acquisition of Florida, in 1819. In the case of Florida, Congress prescribed that the practice to be observed in bringing cases to this court for review from the highest court of the Territory of Florida should be identical, as far as practicable, with the practice governing the appellate jurisdiction of this court over the circuit courts of the United States. The act of Congress of July 14, 1832, section 3 (4 Stats., 600), conferring appellate jurisdiction on this court over the Court of Appeals of the Territory of Florida, provided that the regulations of section

2 of the judiciary act of March 3, 1803, "as far as said regulations shall be practicable, shall be observed in respect to all writs of error and appeals from the said Court of Appeals in the said Territory to the Supreme Court of the United States." It will be observed that the qualifying words "as far as practicable" are used in this act just as the words "as far as applicable" were subsequently used in section 10 of the act of Congress of July 1, 1902, providing a civil government for the Philippines, *supra*. Yet this court in 1842 in the case of *Parish vs. Ellis*, 16 Pet., 451, dismissed an appeal from the Court of Appeals of Florida Territory upon the ground that the rights set up and the method sought to be pursued for enforcing the same were essentially legal and not equitable.

In that case a widow petitioned for allotment of her dower out of real estate left by her husband, and also for her share of the personal property, consisting of negroes and other personalty, claiming to be entitled to one-half of each under a law passed by the Territory of Florida in 1838. Said Chief Justice Taney, in delivering the opinion of the court:

"The question then, is whether the proceedings in the Florida courts were in a case at law. They certainly differ from the ancient common-law proceeding by writ of dower; and, indeed, they necessarily differed from it, because the *widow's share of the negroes and personal property were united in the same proceeding that was instituted to recover her dower in the real estate*; and it certainly does not strictly conform to any of the modes of proceeding known to the common law. But in many of the States and Territories the ancient common-law remedy for the purpose of obtaining an allotment of dower, as well as the remedies for other mere legal rights, has been changed for others more convenient and suitable to our situation and habits. Yet they are regarded as cases at law, although they are not carried on according to the forms of the common law. In the case of *Parsons vs. Bedford* and others, 3

Peters, 447, the court when speaking of remedies of this description, said, that all suits brought to settle *legal rights which were not of equity or admiralty jurisdiction, whatever might be their peculiar forms*, were cases at law, within the meaning of those terms, as used in the Constitution and acts of Congress. *In a case like the present, it is true that although the right is strictly a legal one, yet the court of chancery possesses concurrent jurisdiction with the courts of law. But the proceeding in question is obviously not according to the principles or established practice of courts of equity, and was not intended to be such. It could not be sustained in any court under the rules of a court of chancery; and must therefore be regarded as a proceeding at law. And being a case at law it cannot, under the acts of Congress before mentioned, be brought here except by writ of error. The appeal must therefore be dismissed."*

If now we turn from the Florida acquisition from Spain to the Louisiana purchase from France, and study the attitude of this court toward another part of the territory of the United States deriving its original jurisprudence from the civil law, we find the court uniformly maintaining, "as far as practicable," in cases from Louisiana, as in cases from Florida, the original distinction made in the Constitution, and in the acts governing the appellate jurisdiction of this court, between actions at law and equity causes, and holding always to the rule that where a case is essentially an action at law, it can be reviewed by this court only on writ of error. In *Walker vs. Dreville*, 12 Wallace, 440, 442, Mr. Justice Miller, delivering the opinion of the court, said:

"We have so often decided that notwithstanding the peculiarities of the Civil Code of Louisiana, the distinctions between law and equity must be preserved in the Federal courts, and that equity causes from that circuit must come here by appeal, and common-law causes by writ of error, that we cannot now depart from that rule without overruling numerous decisions and a well-settled course of practice."

The Code of Louisiana is very similar to the Spanish Code for Cuba, Porto Rico, and the Philippines, which has remained in force under American rule. Both have what they call an action of "revindication." This action is dealt with in the Louisiana Code in articles 4, 12, and 43, and by the Spanish Code of 1889 for Cuba, Porto Rico, and the Philippines in its article 348. This statutory action of "revindication" offers in both jurisdictions a plain and adequate remedy at law for persons claiming title as heirs at law against persons in possession of an inheritance.

Article 348 of the Spanish Civil Code of 1889 for Cuba, Porto Rico, and the Philippines reads as follows:

"La propiedad es el derecho de gozar y disponer de una cosa sin mas limitaciones que las establecidas en las leyes.

"El propietario tiene accion contra el tenedor y el poseedor de la cosa para reivindicarla."

*Translation.*

"Ownership is the right to enjoy and dispose of a thing without further limitations than those established by the laws.

"The true owner has a right of action against the holder and the possessor of the thing to recover it."

The case at bar is essentially an action of "revindication," and is thus fully provided for by the Civil Code of the Philippines. Plaintiffs claim title as heirs at law of the deceased, and if their claim be true their remedy is plain. No act of the defendants gives these plaintiffs a right to prosecute this action; no act outside their own alleged legal rights give them ground to institute this action. This court in *Gaines vs. Chew*, 2 Howard, 647, used the following language:

"It is upon the ground that such a remedy is plain and adequate and complete, that equity will not give relief. There can be no doubt, as between the heir



at law and the devisee, in ordinary cases, the proper remedy is to be found in a court of law." (*Gaines vs. Chew et al.*, 2 How., 647.)

Let us now turn to this court's interpretation of the action of revindication under the Louisiana Code.

In the case of *Ellis vs. Davis*, 109 U. S., 485, this court held that a bill in equity could not be sustained in the circuit court to recover possession of real estate, part of which was devised to the defendant and part given to him by the testatrix, and to set aside the will and conveyance so obtained by undue influence and for an account of the rents and profits, where the title asserted by plaintiff is not an equitable but a legal title; and that his remedy at law was plain and adequate.

The court also held in *Ellis vs. Davis*, that under the law of Louisiana an action of revindication is the proper one to be brought for the purpose of asserting the legal title and consequent right of possession of the heir at law to the succession, when another is in possession under claim of title by virtue of a will admitted to probate, and that that action furnishes a plain, adequate, and complete remedy at law, and excludes a suit in equity for the purpose. In rendering its opinion, this court quotes the case of *Sharp vs. Knox*, 2 La., 23, wherein it was said:

"When an action of revindication is instituted by an heir at law against the testamentary heir or universal legatee who has been put in possession of the estate and who sets up the will as his title to the property, district courts are the proper tribunals in which such suits must be brought and that in this case the petitioner himself shows that the defendant holds the property claimed under a will and confirmatory act, which she seeks to set aside. This she cannot do except in a court of ordinary jurisdiction."

The opinion of the court in the case of *Davis vs. Ellis* also says:

"By the law of Louisiana, C. of Pr., art. 4, a real action is given, which relates to claims made on immovable property, or to the immovable rights to which they are subjected, the object of which is the ownership or the possession of such property, and when prosecuted by one having the title against the person in possession, is called the petitory action, and is the proper action for recovery of an universality of things, such as an inheritance. C. of Pr., art. 12. It is an action of revindication, C. of Pr., art. 43, and is the proper one to be brought for the purpose of asserting the legal title and consequent right of possession of the heir at law to the succession, when another is in possession under claim of title by virtue of a will admitted to probate, as is abundantly shown by the citations already made from the decision of the Supreme Court of Louisiana."

In the case of *United States vs. C. A. Wilson*, 118 U. S., 86, it was held that

"The remedy of a person having the legal title to real estate, but kept out of possession by a person holding adversely, is at law to recover the possession."

By section 705, United States Revised Statutes, it was provided that this court should have jurisdiction to review final judgments and decrees of the Supreme Court of the District of Columbia "in the same manner and under the same regulations as are provided in cases of writs of error on judgments, or appeals from decrees rendered in a circuit court." In *Ormsby vs. Webb*, 134 U. S., 47, it was held that writ of error was the proper mode of review of proceedings for the probate of a will in the Supreme Court of the District, "*although the proceeding may not be technically one at law*," the court, by Mr. Justice Harlan, saying (p. 64):

"A proceeding in this District for the probate of a will, although of a peculiar character, is nevertheless a case in which there may be adversary parties, and in which there may be a final judgment affecting rights of property. It comes within the very terms of the act of Congress defining the cases in the Supreme Court of this District, the final judgments in which may be re-examined here. If it be not a case in equity, it is to be brought to this court upon writ of error," although the proceeding may not be technically one at law, as distinguished from equity."

In the case of *Behn vs. Campbell*, 200 U. S., 611, this court definitely, specifically, and finally adopted and endorsed the applicability of our time-honored distinction between appeals and writs of error to cases coming from the Philippines. In that case an appeal was dismissed upon the ground that the judgment of the Supreme Court of the Philippines in an *action at law* will not be reviewed here by appeal but by writ of error only. This case has never been reversed and must control the case at bar on the question of the appeal.

The foregoing rather elaborate exposition of the law related to the question of the appeal in this case would not have been indulged had it not been for the fact that our adversaries appear to seriously contend that this case is properly here on appeal. They rely, in support of this contention, on two cases from the Philippines, to wit, *De La Rama vs. De La Rama*, 201 U. S., 303, and *Strong vs. Repide*, 213 U. S., 419. The case of *Strong vs. Repide* was peculiarly a case for a court of equity. In that case Mrs. Strong had been induced to part with certain valuable stock by her business agent upon the faith of false and fraudulent statements made by him to her that the stock was practically worthless, by means of which false statements her agent profited in subsequent manipulation of the stock. The *De La Rama* case was also peculiarly an equity case, involving, as it did, the dissolution of a conjugal partnership and the liquidation of the "assets" or joint property of that partnership. See

also *Martinez vs. International Banking Corporation*, 220 U. S., 214.

Our adversaries seem to think that because the courts below differed in the case at bar, that circumstance would give standing in this court to an appeal otherwise not properly brought here. They further argue that this view may be urged "with all the more reason where, as here, the division of opinion exists not only as between the upper and lower court, but extends to the members of the higher tribunal." Then they quote section 1 of act 1596 of the Philippine Commission, which gives the Supreme Court of the Philippines authority to reverse the Court of First Instance where they are of the opinion that "a preponderance of the evidence" justifies such reversal, and add:

"It follows that the real question for this court to consider is whether the evidence introduced by the appellants and plaintiffs in the Court of First Instance was sufficient to justify the findings of the judge of that court \* \* \*."

In other words, our adversaries appear to expect this court to examine the facts in this vast and voluminous case *de novo*. We do not believe this court will do any such thing.

The clear net purport, intent, and meaning of all the Philippine cases which have come before this court since we acquired those Islands is that as to cases from the Philippine Supreme Court this court will, under section 10 of the Philippine Government Act of July 1, 1902, preserve the same distinction between appeals and writs of error which it has uniformly recognized for more than one hundred years in the exercise of its appellate jurisdiction over final judgments and decrees of the circuit courts of the United States. If the position of our adversaries is correct, it means, in its last analysis, that this court may be asked and expected to re-examine *de novo* all the facts upon which may have been based any judgment or decree rendered in any case whatsoever, whether legal or equitable, by the Supreme Court of

the Philippine Islands, provided only the case involves the requisite jurisdictional amount to get here. With deference we submit that it never was the purpose or intent of Congress to impose any such burden upon this court.

## II.

### The Writ of Error.

Having finished with the appeal in this case, we must now cordially concur in the soundness of the apparent belief of our adversaries that their writ of error has no standing before this court.

"An appeal brings up questions of fact as well as of law, but upon a writ of error only questions of law apparent on the record can be considered, and there can be no inquiry whether there was error in dealing with questions of facts."

*Behn vs. Campbell*, 205 U. S., 403, 407.

This was a case from the Philippines decided in 1907. It cites with approval a line of American cases stretching from *Wiscart vs. D'Auchy*, 3 Dall., 321, to *Elliott vs. Toeppner*, 187 U. S., 327. See also *Miles vs. U. S.*, 103 U. S., 304.

"Questions respecting the weight of evidence cannot be reviewed on writ of error."

*U. S. Express Co. vs. Kountze* Ross, 8 Wall., 342.

The Philippine cases of *De La Rama vs. De La Rama*, 201 U. S., 303, and *Strong vs. Repide*, 213 U. S., 419, were equity causes, and the re-examination of the facts which this court made in those cases was predicated upon its jurisdiction by appeal.

## III.

**THE FACTS.**

Substantial justice has been done by the decision of the Supreme Court of the Philippine Islands in this case.

Before going into the testimony we will first contrast plaintiffs' and defendants' claims as to the facts.

**Presentation of Facts.***Plaintiffs' Case.*

1. That on or about the year 1823 one Sy Quia, thereafter known in the Philippine Islands as Vicente Romero Si-Quia, was born in China.

2. That on or about the year 1847 the said Sy Quia was married in the city of Amoy, China, to one Yap Puan Niu, and that he and Yap Puan Niu continued to be husband and wife.

*Admitted generally by plaintiffs.*

*Defendants' Case.*

1. *Defendants claim that the only fact plaintiffs have succeeded in proving is that Vicente Romero Sy Quia was born in China. Defendants also claim that the Sy-Quia to which the Chinese witnesses referred is not the same one who was later known as Vicente Romero Si-Quia.*

2. *Defendants allege that in the year 1847 Sy Quia was in Vigan, Philippine Islands, and therefore could not have been in China, and much less married there; they also deny specifically plaintiffs' contention and claim that the evidence introduced by the plaintiffs to support it has utterly failed to prove it.*

As against this fact the defendants allege (a) that prior to the year 1852 Vicente Ruperto Romero Sy Quia was a non-Christian Chinaman known only by the name of Sy Quia, re-



*Admitted by plaintiffs.*

siding in the Philippine Islands for many years prior to the said year 1852.

(b) That on the 11th of June, 1852, the said non-Christian Chinaman, Sy Quia, was converted to Christianity, receiving the baptismal waters in the parish of San Vicente Ferrer, Province of Ilocos Sur, Philippine Islands, and the names of Vicente Ruperto Romero Sy Quia. (To this allegation they accompany an entry of baptism and certificate of baptism, duly authenticated.)

*Admitted by plaintiffs.*

(c) That on the 9th of June, 1853, in the city of Fernandina, of Vigan, Philippine Islands, the Chinaman converted to Christianity, Vicente Ruperto Romero Sy Quia, contracted a legitimate canonical marriage in accordance with the laws then in force in the Philippine Islands, with Petronila Encarnación, Indian, a native of Vigan, Province of Ilocos Sur. (Copy of the marriage certificate is also accompanied to support this fact.)

*Facts admitted by plaintiffs.*

(d) That Vicente Ruperto Romero Sy Quia and his wife, Petronila Encarnación, established and fixed their residence and conjugal domicile in the Philippine Islands, where, as a matter of fact they maintained their conjugal domicile from the

celebration of their marriage, from the 9th of June, 1853, until the dissolution of the same by death of the husband, Vicente Ruperto Romero Sy Quia, which occurred on the 9th of January, 1894.

3. That of the marriage of said Sy Quia and said Yap Puan Niu there were born two male children, Si Bi Bo and Si Bi Git, who were the only legitimate children and heirs at law of the said Sy Quia.

*3. This is specifically denied by the defendants.*

4. That on or about the year 1882 the said Si Bi Bo died intestate in China, leaving as his only legitimate children and heirs at law plaintiffs, Si Yoc Chai and Si Hui Niu and the said plaintiffs Si Yoc Chai and Si Hui Niu ever since the death of Si Bi Bo became, and are now the only legitimate and surviving children of said Si Bi Bo, deceased.

*4. This is specifically denied by the defendants, who also claim that Sy Yoc Chai's personality has not been proven.*

5. That on or about, the year 1880 the said Sy Bi Git, the other legitimate child and heir at law of the said Sy Quia and Yap Puan Niu died intestate in China, leaving as his only surviving children and heirs at law, plaintiffs, Sy Yoc Ling and Sy Chiao Niu, who, since the death of said Si Bi Git have been and are now the only legitimate surviving children and heirs at law of said Sy Bi Git, deceased.

*5. This is specifically denied by the defendants.*

6. That on or about the year 1891 the said Yap Puan Niu, wife of said Sy Quia, died intestate in China, leaving surviving her her husband, the said Sy Quia and the plaintiffs herein, her only grandchildren, who, ever since her death, have been and are now her only legitimate children.

7. That on or about the year 1894 Sy Quia died intestate in the city of Manila, Philippine Islands, leaving surviving him plaintiffs herein, his grandchildren, who, at the time of his death, became, and ever since have been, his only legitimate descendants and heirs at law.

6. *This is denied specifically by defendants.*

7. *The fact that plaintiffs are legitimate heirs or descendants of Sy Quia has been denied specifically by the defendants and against it the defendants allege the following:*

That on the 9th day of January, 1894, in the city of Manila, Don Vicente Ruperto Romero Sy Quia, legal husband of the defendant, Petronila Encarnacion, and legal father of the defendants, Gregorio, Pedro, and Juan Sy Quia, and Generoso Mendoza Sy Quia, died intestate, and after the legalities in accordance with the legislation then in force, by order of the Court of First Instance of Quiapo, dated January 26, 1894, his living children, Apolinaria, Gregorio, Pedro, and Juan, born as alleged, in legitimate wedlock with Petronila Encarnacion, and his grandchild, Generoso Mendoza Sy Quia, in representation of his mother, Maria Romero Si-Quia, deceased, were judicially declared heirs of the

8. That during his life, Vicente Romero Sy Quia acquired a large estate, consisting of real and personal property situated in the Philippine Islands.

9. That on or about the 3d day of August, 1900, the defendants and each of them, unlawfully, without right and in the absence of the plaintiffs and each of them, took possession of all and every part of the real estate and personal estate of the said Sy Quia, otherwise known as Vicente Romero Sy Quia, deceased, and said defendants and each of them have, as aforesaid, ever since been managing and administering the said real and personal estate of the said Vicente Romero Sy Quia, assuming acts of ownership and dominion over said estate of the said Sy Quia, deceased.

intestate. (Copy of said decree is attached and made a part of this document, marked Exhibit 8.) (See Rec., 18-20, 85, 86.)

8. *As against this fact the defendants allege:* That at the celebration of his marriage with Petronila Encarnacion, Vicente Ruperto Sy Quia had no property whatsoever, and therefore brought nothing into the marriage with Petronila Encarnación, while she brought into the conjugal society a small capital, which was the basis of a larger one acquired later by the spouses through their work and industry, and through the work and industry of their children.

9. As against this fact defendants allege that by order of the Court of First Instance of Intramuros dictated August 3, 1900, the partition of the estate of the deceased Vicente Romero Si Quia amongst the living children of said deceased, Apolinaria, Gregorio, Pedro, and Juan, and his grandchild Generoso Mendoza, in representation of his deceased mother María Romero Sy Quia, was approved (Rec., 18).

10. That since on or about the 3d day of August, 1900, the said defendants and each of them have converted and are converting part of the estate of the said Sy Quia to their and each of their own use and benefit and have converted a great part of said estate into other real and personal property unknown to the plaintiffs and to each of them, and said defendants and each of them are now in possession of said property so converted from the real and personal property left by the said Sy Quia as aforesaid, exercising acts of ownership and dominion thereon.

10. As against this the defendants allege that the plaintiffs in this case resided in the Philippine Islands at the time of the death of Vicente Ruperto Romero Sy Quia, and knew the fact of the death of said Vicente Ruperto Romero Sy Quia, and furthermore, the plaintiffs at the time had knowledge and advice that the defendants had asked and received the declaration of heirs and approval of the partition of the estate in their favor and which is referred to in the above paragraphs.

Having thus presented the issues of fact we shall now proceed to discuss the evidence adduced by plaintiffs and defendants in regard to each of their respective contentions.

## PLAINTIFFS' EVIDENCE.

### Oral Testimony.

The first and principal witness for the plaintiffs is Sy Peng (Rec., 125-183). Sy Peng is a remarkable man. Although six or seven years old at the time, he remembers, with astounding precision, that Sy Quia went to Manila at the age of twelve years (Rec., 127), and is able to tell us, after the lapse of fifty years, that Sy Quia stayed in Manila until he was twenty-five years of age, and then went back to China to marry a girl, a certain Yap Puan Niu, whose name he also is able to give, in spite of the fact that the first time he ever knew her was on the day the alleged marriage took place. Although he remembers so well the name of Sy Quia's alleged wife, her age, and the names and ages of the wives of their two sons, Sy Bi Bo and Sy Bi Git, and those of their sons' daughters, he does not know the names or the ages of the wives of Sy Yoc Ling or Sy Yoc Chai, nor of any of the women who are living at present, and with whom he has been but a few days before (Rec., 167-168). Yet, he must have seen them every year for many years before, if we are to believe his testimony that he went to their house to see certain mortuary tablets every year at the respective anniversaries of the deaths of the parties whom those tablets are supposed to represent (Rec., 180). He is so eager, so willing always to tell what was Sy Quia's age when he married, that every time he has a chance to say it he does so, whether or not the question put to him calls for the information (see Rec., 129):

"When was this man married?

"He came home to be married when he was 25 years old."

Rec., 136:

"When were these parties married?"



"When Sy Quia came home from abroad, when he was in about his 25th year."

And at Rec., 169:

"He went abroad at the age of 12 or 13 and remained abroad until he came home, that is, in his 25th year; this is not a personal matter of mine and I cannot be expected to remember the exact dates."

And yet, this same witness, who has such a good memory, and who, after sixty years, is able to remember what Sy Quia's age was at a certain time, and who, at the same time, asks to be excused for not being able to be more accurate, because it is not a personal matter of his, voluntarily shows us that he has such a poor memory for his own personal matters that he cannot remember the dates of the death of any of three wives (Rec., 170).

This same witness, who can remember so well the respective ages of Sy Quia, Yap Puan Niu, Si Bi Bo, Sy Bi Git, Sy Yoc Chai, Sy Yoc Ling, Sy Hui Niu, Sy Chua Niu, and others, at different stages of their respective lives, makes a mistake as to the year of his own birth, giving it first as that of the "Rat" and changing it afterwards to that of the "Pig" (Rec., 161, 182). And when asked "How old were you when Sy Quia got married?" (Rec., 161) answers:

"I was either 20 or 21 years old then. I am so old, that I cannot remember exactly."

Is it not really surprising also that a man, sixty years and more, after the occurrence of an event which, according to himself, was not a personal matter of his at all, should remember it even to the last detail, and give us an account as realistic and complete of the same as if it had taken place only two or three days before? Yet, this witness gives an account of Sy Quia's marriage from beginning to end (Rec., 156) as full and detailed as any account given in the morning papers of today about a wedding that took place the

afternoon before, even with the list of presents and the dress the bride wore.

At times his memory gives him away. Without being asked (Rec., 189), he gives the information that at the time of Sy Quia's death "the women folk of his house paid a visit of condolence to his (Sy Quia's) wife in China." He tells us this voluntarily, because the question put to him did not call for the information. He discovers soon after that he has remembered too much, and tries to amend it, saying that he did not mean that, that Sy Quia's wife had been dead long ago.

No data whatever can we find in the testimony of this witness, nor in that of the others who followed him, from which we may fix with positive certainty the important dates on which the main facts at issue in this case are supposed to have taken place.

During the testimony of this witness certain tablets were introduced which plaintiffs claim furnish the data above alluded to. We will deal with the tablets later on, when it is hoped we will be able to demonstrate their spuriousness.

Outside of the positive statement given by this witness that Sy Quia was 25 years old at the time he was married, without showing any satisfactory reason to explain this wonderful feat of memory, we find throughout the testimony the indefinite "about," "upwards of," "more than," etc., which certainly cannot be relied on to fix a certain definite date from which depends the plaintiffs' case.

The next witness called in by the plaintiffs was Lim Chio (Rec., 184-199). She tells us, at page 184, that she is seventy-seven years old. With a memory as remarkable as that of the witness who preceded her, she also can remember with astounding precision the age of Yap Puan Niu when she married Sy Quia and also Sy Quia's age, and this, in spite of the fact that she had never met Sy Quia until after the wedding had taken place (Rec., 195). She also tells us that she knew Yap Puan Niu, because although she had never met her until the very day of her wedding, the latter

had acted as her maid at the time of the witness' wedding (Rec., 184). And yet (Rec., 195) she tells us that it is a fact the bridesmaids are always very intimate friends or very near relatives of the bride. Although she says that her age is seventy-seven years yet the only reason she gives for knowing her age is the fact that her sons celebrate her birthday every year (Rec., 192). In her testimony she always keeps in mind the fact that Sy Quia came home to be married when he was twenty-five years old; that he stayed in China three or four years after the marriage, and she is able to give all the details as to the birth of Sy Quia's children and the children of Sy Bi Bo and Sy Bi Git because of the fact that she had received cakes, etc., at the time of their respective births. She is able to say the different times at which these births and deaths took place, although sixty-odd years have intervened. Like the preceding witness she also gives us as detailed an account of the marriage as a newspaper reporter could give it of one which took place the day before. She remembers what was done almost every day during the celebration of the marriage, although she was not present at every ceremony. In spite of her alleged intimacy with Yap Puan Niu, and in spite of remembering all the details and different events of Yap Puan Niu's life, she is unable to tell us what was Yap Puan Niu's nickname (Rec., 193). Now, if we turn to page 171 of the printed record we will find that the witness Sy Peng, reading one of the tablets, Exhibit "1," of the plaintiffs, which is made part of this record, finds the name Puan Kun, and explains that this name means "diligent" and was the nickname given to the woman Puan because she was very diligent in her household work. Lim Chio, however, the intimate friend of Yap Puan Niu, who even had her as a bridesmaid at the time of her wedding, does not know who Puan Kun was (Rec., 193). This witness, again, who knows all the details of the wedding of Sy Bi Bo and the name of his wife, does not know who Mrs. King Niu, the one appearing as Sy Bi Bo's

wife in tablet No. 2, Plaintiffs' Exhibit No. 2, was (Rec., 194). This witness, Lim Chio, who can give us so many details as to the marriage of Sy Bi Bo and Sy Bi Git, the names of their respective wives, the names of their respective children, and the different times of the latter's birth and the former's death, tells us (Rec., 196):

"Did you know Sy Bi Bo's and Sy Bi Git's wives and did you see any of the four of their children after the former were married, if so, state where, when and how many times?

*"I have never met the wives of Sy Bi Bo and Sy Bi Git. I have seen their children with the exception of Yoc Chai.*

"How many times, when and where?

"I have never met Sy Yoc Chai. This is the only son of Sy Bi Bo."

This witness gives no data whatever by which we could fix positively the important dates so necessary to the plaintiffs' case. With a degree of indefiniteness equal to that of Sy Peng, when her memory fails her she shields herself with the indefinite expressions "about ten years," "about sixteen years," "more than twenty years," "more than ten years," etc.

We might go on quoting one by one the almost stereotyped declarations of the several witnesses who testified in China as regards the facts alleged by the plaintiffs; we might go on pointing out the same conditions in the testimony of each one of the witnesses Yap Si Tan, Yap Chia, Sy Kai Tit, Yap Chong, Sy Kong Leng, and Sy Jong Oan, but it would be superfluous repetition. All of these nine witnesses seem to testify after a specially cut pattern, which, more or less, sounds like this:

That Sy Quia left China when he was twelve years old.

That he went back to China when he was twenty-five years old.

That at that age he married Yap Puan Niu.

That a year after the marriage Sy Bi Bo was born.

That a year later Sy Bi Git was born.

That soon after that Sy Quia went back to Manila.

That a few months later he came back as supercargo of a certain boat.

That he stayed a few days and left again.

That he came back again about ten years later, but did not stay long, only about a year, after which he went back to Manila and never came back again.

That Sy Bi Bo was married when he was about twenty-two years old.

That Sy Bi Git was married a year later.

That Sy Bi Bo had two children, one boy and one girl.

That the boy died a very short time after he was born and in his place Sy Yoc Chai was adopted.

That Sy Bi Git also had two children, one boy and one girl.

That the girl born to Sy Bi Bo died a few months before the taking of the depositions.

That she left a child, a boy.

That Yap Puan Niu died "more than" or "about" 15 or 16 years before (some also say "more than 12"; one said "more than 60 years ago" (Rec., 224).

And Sy Quia "more than twelve years before."

And Sy Bi Bo died "more than 10, 15 or 20 years before."

And Sy Bi Git "more than twenty years before."

And Ho Gim Niu (the alleged wife of Si Bi Bo) "more than ten years before."

And Yap Sung Niu (the alleged wife of Sy Bi Git) "more than twenty years before."

But in spite of the striking concordance of all these witnesses as to all these facts which took place such a long time ago, ranging within a period of from sixty-eight to ten years, facts told with almost identical seeming accuracy, even to the details of the wedding ceremony and the name

of the mediator who arranged the wedding, yet these same witnesses seem to falter when asked about matters other than those above set forth, even about their personal affairs.

Let us study the question of the credibility of these witnesses:

We have already commented on the testimony of Sy Peng and Lim Chio, and therefore we shall proceed to point out the fact that Yap Sy Tan, who is able to give the ages with great precision and is positive about her own age, is only able to tell us that she was born the year of the Cow, but does not know of what cycle or what dynasty.

The witness Yap Chia (Rec., 213), who, not having known Sy Quia until the day of his alleged marriage to Yap Puan Niu (Rec., 226-7), knows the time Sy Quia had been in China before said marriage (Rec., 216); he knows the respective ages of some persons to a certainty when (Rec., 222) he tells us that he cannot count any given age and does not know even the year in which he is testifying. This witness also remembers even the presents Yap Puan Niu received at the time of her wedding (Rec., 215). Also how long Sy Quia and Yap Puan Niu stayed in Lao Puan when they came to visit her old home (*ibid.*); and even that after worshipping the family gods Sy Quia and Yap Puan Niu retired to their room to change their clothes. He remembers how old were Sy Bi Bo and Sy Bi Git when they were married, and the time when their respective children were born, although he was not very intimate with them, or attended their wedding or their funeral (Rec., 227), or even called on them (*ibid.*). Though he never had lived in Am Thau, or had ever been there until he was about 50 or 60 years old, yet he can remember how many times Sy Quia went to Am Thau and how long he stayed each time (Rec., 226).

As to the witness Sy Kai Tit, we have only to quote several paragraphs of his testimony to show that it is unworthy of belief (Rec., 235):



"State, if you know, where Sy Bi Git is."

"He is abroad. No, Sy Bi Git is dead."

"When did he die?"

"Sy Bi Git has been dead about 50 years now."

"Where did he die?"

"In Am Thau. From the date of his birth until now is 50 years, but he has been dead more than ten years. No. More than 20 years."

"When did he die in reference to the time of the death of his mother?"

"He died before his mother."

And again (Rec., 237-238):

"State if you know whether Sy Bi Git and his wife had any children, and, if so, how many?"

"Yes, Sy Bi Git had Sy Yoc Chai. No Sy Yoc Ling and Chiao Niu."

At page 236 he states:

"On the day of the marriage the Red Chair party was sent to meet the bride, and on her arrival in the Red Chair she was met by the groom in *official costume* and so forth, in his house. They worshiped heaven and earth and were thus married amid the firing of firecrackers."

At page 242 he tells us, however:

"What office did Sy Quian hold at the time of his marriage?"

"None."

"What was he?"

"*He was a man who had been abroad to earn his living. He was no official.*"

Again on this same page we find the following:

"How long is it from that Sy Quian was married?"

"Eighty-four years ago. I mean from the time he was a boy up to now it is 84 years."

"How old was Sy Quian when you knew him as a boy?"

"I did not know Sy Quian as a boy; the first time

I knew him was when he came home to be married.

"How many years was Sy Quian married to Yap Puan Niu? Give us a direct answer, please.

"About sixty years or more.\*

"How old was this Sy Bi Bo when Yap Puan Niu died?

"He was more than forty years old."†

And finally, this witness gives the remarkable information that he, a *boy of twelve years* at that time, *took part as informer* in Sy Quia's wedding prearrangements (Rec., 240-241):

"Did you take part in any of those conversations?

"I was present when the negotiations and so forth took place.

"Did you take part in them?

"I was helping there doing what job I could.

\* \* \* \* \*

"You still have not answered the question. Did you take any part in the discussion?

"Yes, I took part.

"Did you not say just a moment ago that it was only Sy Quian's parents who took the negotiations up with the mediator?

"Yes, I did say that. His parents were the oldest members of the family and therefore they had the deciding authority in the matter. Some of the younger ones were then in Manila, the part I took was to do what little I could then in the way of making inquiries.

"And you were then only a twelve-year-old boy?

"About that age.

"What kind of information and inquiries did you make?

"The inquiries I had been making was to ascertain whether the girl had been married before (etc.).

\* \* \* \* \*

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\*(NOTE.—This makes Sy Quia and Yap live until 1907.)

† (NOTE.—And he was already dead.)

"Did you make formal report before the family council and the mediator after you found out those things?

"I reported the result to Sy Quian's father.

"Then Sy Quian's father, from what you say, did not have much confidence in Yap Puan, did he?

"Sy Quian's father had to make an inquiry anyway, he was old, did not like to go himself, so he sent me as a boy to do it for him."

Yap Chong says he was 60 years old at the time Yap Puan Niu died (Rec., 255). Witness gives us the date of Yap's death as about 1894 or 1895, thus supporting the statement on the tablet No. 1 and contradicting all the rest of the witnesses:

"How old are you?

"Seventy-one years old.

"How old were you when Yap Puan Niu died?

"I was about 60 years old."

The witness Sy Boan, when asked (Rec., 262) how long Yap Puan Niu had been dead, says:

"She has been dead more than 10 years, 13 or 14 years. No she has been dead 15 or 16 years."

At Rec., 268, we find the following questions and answers:

"How old was Sy Bi Git when Yap Puan Niu died?

"More than 20 years.

"And how old was Sy Bi Bo at the time Yap Puan Niu died?

"More than 20 years old, less than 30 (which would give us Yap Puan Niu's death in 1876 or 1877).

"No. At the time Yap Puan Niu died Bi Bo had been dead."

The witness Sy Jong Oan claimed to be able to write in Chinese characters the name of Vicente Romero Sy Quia, yet he is not able to write the same sounds of that name

when given to him, in spite of the fact that he is able to compose such characters.

"Have you ever seen the name Vicente Romero Sy Quia written in Chinese characters?

"I have never seen the name written in Chinese. All his letters, that is letters addressed to him from China, in Chinese, by Chinese, gave his name as Sy Tiong Quian.

"Therefore the Chinese characters you have written here are your composition?

"Yes, my composition, trying to write his name as he was known in Manila.

"Will you please write in Chinese characters the name Leo-Degario Aguilar?

"There is no such sound in Chinese.

"Will you please write the name Francisco Gutierrez?

"It is very difficult to express the sound in Chinese.

"Will you please write the name Adolfo Zunega?

"No, I cannot write those names.

"Will you please write the name Ro-que Ma-dei-na Vi-to?

"No, I cannot write those names."

This same witness (Rec., 301) tells us that he does not know anyone of Sy Quia's Filipino relatives, and yet, at page 303, we find the following questions and answers in his testimony:

"What Filipino children were those?

"They were his children, named Gregorio, and Pedro.

"Who else?

"No one else.

"Do you remember Juan?

"No.

"About how old were Pedro and Gregorio?

"Gregorio was more than 40 years old, I should judge.

"And Pedro?

"About 30 or more.

"How long had Sy Yoc Chai and Sy Yoc Ling

been living in Manila at the time of Sy Quian's death?

"About 7 or 8 years.

"Have you ever been at Sy Quian's house in Calle Jolo?

"Yes. I always saw him sitting outside of the door.

"With whom was he living there?

"With a Filipino woman and children.

"With whom was Sy Quian living in Calle Jaboneros?

"With the Filipino woman."

The witness Lim Pan Ling deviates from the other witnesses in the record as to the time that Sy Quia stayed in China the last time he went there. All the other witnesses heretofore testify that Sy Quia had remained some months, at the most one year. Lim Pan Ling testifies (Rec., 402), that he had lived with Sy Quia in Am Thau, China, and also (Rec., 414) says:

"How old were you the first time you went to China?

"I was ten years old. (He went, therefore, in 1862.)

"How long did you remain in China the first time you went there?

"A little over six years.

*"And during all that time was Sy Quia also in China, in Am Thau?"*

"Yes, sir." (Which would have made Sy Quia's stay in China from 1862 to 1865.)

He also tells us, at variance with all the other witnesses who testified in China, that Sy Bi Bo and Sy Bi Git went to Manila and that both had remained in Manila for some time (Rec., 413-414):

"Did you know if Sy Bi Bo and Sy Bi Git came at any time to Manila?

"Yes, sir, they did.

"Who came to Manila first: Sy Bi Bo, Sy Bi Git, or Yap Puan Niu?

"Sy Bi Bo came first.

"And who came next; Sy Bi Git or Yap Puan Niu?

"Sy Bi Git came before Yap Puan Niu did.

"When did Sy Bi Git come to Manila?

"When I came to Manila, Sy Bi Git was here already.

"How long did Sy Bi Bo remain in Manila.

"Only a year, a short time.

"How many times had Sy Bi Bo been in Manila?

"Only once.

"How long did Sy Bi Git remain in Manila?

"The time when I went to China, Sy Bi Git went also to China.

"You mean to say the second time you went to China?

"Yes sir.

"How many times did Sy Bi Git come to Manila?

"I know only of once; I do not know of any other."

Is it not strange that the witnesses in China who remember so well the times that Sy Quia went back and forth from China to Manila and the lapse of time that intervened between each trip, and also the time he stayed at every visit, should not only forget the fact that Sy Bi Bo and Sy Bi Git also went to Manila, but should even state positively (some of them) that they never did?

Witness Sy Hien, a brother of the deceased, on being asked to write the name of his brother Sy Quia, writes it with different characters from those given by the other witnesses. (See Pencil Exhibit No. 1, in connection with this witness's testimony, which is made part of this record.) In this connection we want to call attention to the following incident which happened at the time of this witness writing his brother's name. Sy Hien started to write the name of Sy Quia in compliance with the request of attorneys for the plaintiffs, and wrote it with the characters appearing in Pencil Exhibit No. 5, attached to the record. As soon as characters different from those previously written by other



witnesses in the case appeared on the paper, attorneys for plaintiffs made the motion, under pretext of having a more permanent record, that writing of the names be suspended until a Chinese pen and ink could be furnished to the witness. The defendants objected, not, as the court said, because they did not want permanency of the record, but because they knew that, already on his guard, the witness would change the characters when asked to write them again. Our suspicion was true. When pen and ink were furnished again, after a recess of twenty minutes, the witness was again asked to write the name of Sy Quia. This time, instead of using three characters, he uses only two, leaving the last one entirely out, thus conforming to the way of writing the name followed by all the rest of the witnesses in China and conforming also with the name appearing in the tablet No. 1. The legitimate deduction from this incident is too obvious to need comment. (See Rec., 432.)

We must add here that the first pencil exhibit is known as Plaintiffs' Exhibit No. 5, and the second is marked Plaintiffs' Exhibit No. 6.

From the testimony of this witness we learn also a very important and vital fact to the plaintiffs' case. Sy Hien, a brother of the deceased, tells us positively (Rec., 437), that there exists a family book in China wherein the dates of the birth, at least, of the different members of the family, are registered, and it is a logical surmise that, being a family book, all the important events of the family are registered therein.

"You have stated Sy Quia was older than you. Will you kindly state how much older he was than you?"

"Unless I see the book, I would be unable to tell the difference between Sy Quia and myself.

"To what book do you refer?"

"A book in the house in China."

If there is such a book, why is it that the plaintiffs have not presented it in evidence, when it would be much stronger than the testimony of the long string of 16 witnesses, who were called to testify to the different facts in this case, and were unable to state with precision and positively the dates on which these events took place, using only indefinite expressions, as heretofore remarked, and when pressed under cross-examination, have given up dates which strongly contradict plaintiffs' contention in regard to said dates? By the non-presentation of this book we are justified in believing and stating, under section 334, No. 5, of the Code of Procedure of the Philippine Islands, that, if the plaintiffs have not presented this book, which would speak for itself, it is because, if produced, its contents would be adverse to them. And it was plaintiffs' duty to account for the non-presentation of that book in order to overcome this presumption, which otherwise must stand strongly against all the rest of the evidence.

The plaintiff Sy Yoc Chai tells us (Rec., 476), as against all the rest of the witnesses, that the brother of his father is the father of Sy Yoc Ling, and that he believes "that his father (Sy Bi Bo) had two sisters, who died when they were small." Yet, all the rest of the witnesses are positive in saying that Sy Quia had only two children in China.

Attention is also invited to the following testimony of the plaintiff Sy Yoc Chai (Rec., 473-475):

"What is your name?

"Sy Yoc Chai.

"How old are you?

"Thirty-five years old.

"Where do you live?

"At No. 41 Calle Santo Cristo.

"Where were you born?

"I am a native of Am Thau.

"What is your occupation?

"Working in an alcohol distillery.

"What is your occupation at the present time?

"I am working with Sy Hien, and sometimes I go to the provinces.

"Are you one of the plaintiffs in this action against Petronila Encarnacion and others?

"My cousin is Sy Yoc Ling.

"But are you of the parties to this suit?

"Yes sir.

"Where did you live in Amoy?

"I lived at Am Thau in Amoy.

"Who lived with you in Am Thau?

"My uncle is Sy Ty and my grandfather is Sy Quii.

"Who else lived in the same house in Am Thau besides yourself.

"All my relatives.

"Who are your relatives?

"Sy Que Bieng was my relative.

"Name them all.

"Sy Quii, Sy Ty, Sy Tiap and Sy Hien. Sy Tiap died when a small boy.

"Where did your father and mother live?

"He was the son of Sy Quii.

"But where did your father and mother live?

"In China.

"But where in China?

"They lived in the house of my grandfather.

"Where did your cousin Sy Yoc Ling live?

"In the same house.

"Where did the parents of Sy Yoc Ling live?

"As the brother of my father, he lived in the same house.

"What was your father's name?

"Sy Bi Bo.

"What was your mother's name?

"Ho Gim Niu.

"Is your mother living or dead?

"My father died *four years ago*, and my mother is dead about eleven years ago.

"When did your father die?

"Sr. SUMULONG: The question has already been answered and I object to it on that ground.

"Mr. O'BRIEN: It was not responsive.

"The COURT: Objection overruled.

"Sr. SUMULONG: Exception.

"When my father died I was eleven years of age.  
He died twenty-four years ago.

"Did you have any brothers or sisters?

"One sister.

"What was her name?

"Sy Jui Niu.

"Is she living or dead?

"She died in July.

"Previous to her death was she married or single?

"Married.

"When she died did she have any children?

"Yes, sir.

"How many?

"One son.

"What was his name?

"Siau Hau.

"How old is Siau Hau?

"Six years of age.

"Who was the father of Sy Bi Bo?

"I do not know because I am only a little over  
thirty years of age, and I do not know.

"Who was the father of your father?

"Sr. SUMULONG: Objected to, on the ground that  
the witness has already stated that he did not know.

"Mr. O'BRIEN: I will withdraw the last question.

"What is the name of your grandfather?

"Sr. SUMULONG: Objected to for the same reason.

"The COURT: It may be answered, although in a  
certain way repetition, but at the same time it may be  
for the purpose of correcting something the witness  
misunderstood.

"Sr. SUMULONG: Exception.

"Sy Quui.

"Did your father have any brothers or sisters?

"He had a brother.

"What was his name?

"Sy Bi Git.

"Was Bi Git married or single?

"Married.

"To whom was he married?

"To Yap Su Niu.

"Did Sy Bi Git and Yap Su Niu have any children?"

"Yes sir.

"How many?"

"One son by the name of Sy Yoc Leng and a daughter by the name of Sy Chua Niu.

"Where is Sy Yoc Leng now?"

"He is here in Manila.

"Is he outside here in the other room?"

"Yes sir.

"Is he one of the parties to this suit?"

"Sy Yoc Leng is one of the plaintiffs; he is a relative of mine, just like a brother.

"Where is Sy Chua Niu?"

"Dead.

"How long has she been dead?"

"Less than twenty years, I cannot fix the time.

"Where is the mother of Sy Yoc Leng?"

"She is also dead.

"When did she die?"

"My uncle died when I was five or six years old, and then I went to my aunt's; my uncle died when I was four or five years old.

"Mr. BISHOP (attorney for the plaintiffs): I will ask permission of the court to procure a new interpreter, as it is very evident that this interpreter *does not give either the questions or the answers in the way they should be*, and I base this on my professional statement, and I am confident that this witness does not understand the questions that have been put to him.

"A recess of twenty minutes was taken, after which the plaintiff Sy Yoc Chai proceeded with his testimony."

And now let us notice a fact which every one of the witnesses has forgotten. Each and every one of them, even Sy Hien, the brother of the deceased, testify positively that Sy Bi Git only had two children: Sy Yoc Ling, the boy, and Sy Chua Niu, the girl. Yet when the plaintiffs produced the mortuary tablet of Sy Bi Git in connection with Sy Peng's

testimony, and introduced by plaintiffs in evidence, we find that that is subscribed as follows:

"Tablet of Mr. Sy Bi Git and his wife Mrs. Sy  
Yap Sung Niu.  
Filial Sons:  
Yoc Ling  
Yoc Boon."

Who is the "filial son" Yoc Boon? The tablet tells us that he is a son of Sy Bi Git, but none of the 16 witnesses, not even Yock Ling, the plaintiff, remembers the birth of this child, or even casually mentions his name. Even Lim Chio, that intimate friend of Yap Puan Niu, tells us (Rec., 194), that she does not know who this Yoc Boon is.

The foregoing is the analysis of plaintiffs' oral evidence in regard to the very important facts on which they pretend to base their claim. We submit that it is not *sufficient* to satisfy the mind of this court that Sy Quia was married to Yap Puan Niu in the year 1847, had two children by her, Sy Bi Bo and Sy Bi Git, born, respectively, in 1848 and 1849, and that Sy Yoc Chai is the adopted son of Sy Bi Bo and Yoc Ling the son of Sy Bi Git.

### The Tablets.

Plaintiffs, however, will argue that if the oral evidence fails to support their case, yet they have introduced some documentary evidence, in the form of mortuary tablets, in connection with Sy Peng's testimony, and marked Plaintiffs' Exhibits Nos. 1, 2, and 3, and made part of this record (for a translation of these see Rec., 307-9), which prove their contention.

Let us examine and analyze these tablets and see if they support the plaintiffs' contention.

These tablets, being written in the Chinese language, wholly unknown to the court or to the defendants, had to be



translated by the Chinese interpreter of the United States Consulate at Amoy, China; a highly educated man, thoroughly acquainted and conversant with the Amoy dialect, versed in the law, a scholar, and otherwise fully qualified, as appears at pages 109-111 of the printed record.

According to this translation we find the following facts:

*Tablet No. 1.* That Sy Quia was born on the 4th day of the first Moon of the Kui Wie Year; that is to say, 84 years ago, and died on the 22d day of the 11th Moon of Sin Bau Year, which year we find to be the year 1893. That Sy Yap Si *alias* Puan Kien was born on the 12th day of the 3d Moon of the Ting Hai Year; that is to say, 80 years before, and died on the 3d day of the 12th Moon of the Kui Hsu Year; that is to say, in the year 1894.

*Tablet No. 2.* That Sy Bi Bo was born on the 17th day of the 7th moon of the Bo Chen year, 59 years from the year 1906, and died on the 23d day of the 7th moon of the Kui Hsu year, or the 19th year of Kuang Su; that is to say, the year 1894. And that Mrs. King Niu died at the age of 44, being born on the 4th day of the 2d moon of the Kian Suo year, that is to say, 57 years from the year 1906, and died on the 3d day of the 8th moon of the Jen Wu year; that is to say, in the year 1881.

*Tablet No. 3.* That Sy Bi Git died at the age of 32, was born on the 11th day of the 9th moon of the Chi Yu year, that is to say, 58 years from the year 1906, and died on the 21st day of the 7th moon of the Kian Chen year of Kuan Hsu; that is to say, 1879. That Mrs. Yap Sung died at the age of 32, having been born on the 15th day of the 10th moon of the Kui Chao year of Tao Kuang, or 54 years from the year 1906 back, and died on the 28th day of the 4th moon of the Kia Ching year of Kuang Hsu; that is to say, in the year 1884.

At a mere glance at these tablets we are surprised to see the neatness of the arrangement of tablet No. 3 as compared with the crowding of Chinese characters in tablets Nos. 1 and 2. But we shall refer to this later.

The interpreter's translation has been studied carefully. Upon making a computation of the different dates, defendants were astonished to find that either these tablets presented in evidence by the plaintiffs were not correct, or all the testimony given by the witnesses in China, as well as in Manila, in behalf of the plaintiffs, was contrary to the real facts, as shown by these tablets. By examining plaintiffs' Exhibit No. 1, we find that Sy Quia, who died on the 9th day of January, 1894, is killed by that tablet one or two years before, and that Yap Puan Niu, who, according to the oft-repeated testimony of plaintiffs and the majority of their witnesses (with the exception of Yap Chong, who testified she died in the year 1894), had died two or three years before Sy Quia, her alleged husband, has her life prolonged by said tablet for two or three years more after her death. In the same way we find in Plaintiffs' Exhibit No. 2 that Sy Bi Bo, who, according to the testimony of plaintiffs, died long before his father and mother, did not die, according to the tablet, until the year 1894, the same year of his mother's death, as given by tablet No. 1, and that his wife, King Niu, died long before he did, when the witnesses for plaintiffs testified that she died long after. Do not these flagrant contradictions give strong reason to doubt the genuineness of these tablets? If they are genuine, how can they be made to correspond and agree with the oral testimony? If the oral testimony, on the other hand, is correct, is it not clear that these tablets were made in haste and carelessly, to meet the demand for some written evidence to corroborate the weak and indefinite oral testimony? With the presentation of these tablets, the plaintiffs, instead of strengthening their case, have, on the contrary, thereby weakened, if not destroyed, it. What satisfactory explanation can be given for this discrepancy?

Plaintiffs claim that the interpreter's translation, assuming that it is, strictly speaking, correct as a translation, is incorrect as to the order of dates; in other words, that the in-

terpreter's translation assigns to Sy Quia the date of Yap Puan Niu's death and the date of Sy Quia's death to Yap Puan Niu; and that the same happened with the tablet of Sy Bi Bo; and that if these dates are transposed, they will then be found to correspond with the respective dates of the deaths of the different parties as established by the oral evidence. To support this contention plaintiffs allege that the 3d day of the 12th moon of the Kui Hsu year corresponds exactly with the 9th day of January, 1894, the date of Sy Quia's death, and that the ages of Sy Bi Bo and his wife explain by themselves that the dates of birth and death have been transposed. \

Their argument is specious. In the tablets, as they appear and read, the ages do not correspond to the respective dates of birth and death of the parties, and this shows that the tablets are not genuine. Moreover, the subsequent conduct of the plaintiffs practically admits that they are not to be relied upon.

For six years the case has been pending; for six years the defendants have alleged and asserted that these tablets showed on their face that they were not genuine; this allegation was made at the trial of the case and was not met by plaintiffs. The same allegation was made when the case was argued for the first time on appeal before the Supreme Court of the Philippine Islands; their genuineness was again contested by the defendants when the case was argued for the second and third times in the same Supreme Court, and only silence met their charge. They did not refer to the tablets incidentally even once. Only now, *for the first time*, before the Supreme Court of the United States, do they attempt an explanation. If the translation was mistaken, it was their duty to have so suggested to the trial court and to the Supreme Court of the Philippine Islands. It is too late now. It is to be noted that this translation is *plaintiffs'* evidence, although marked "Defendants' Exhibit A" (this being only due to the fact that it was offered by said defendants as part

of the cross-examination of the witness Sy Peng), and they have never attacked it, have never attempted to explain it heretofore, in spite of the fact that Yoe Ling and Yoe Chai both testified in the case and could have given that explanation. Yet not once throughout their testimony appears the slightest allusion to these tablets which are supposed to be signed and subscribed by them!

It is too late now to consider any hypothesis as to whether the dates were transposed.

The tablets explain and speak for themselves and the translation made of them by Li Ung Bing, acquiesced in by the plaintiffs, also speaks for itself. And it is because of this that the Philippine Supreme Court concluded that these tablets must have been made in a hurry in plaintiffs' eagerness to bring some documentary evidence to support their case. We cannot comprehend how a mistake could be made by the learned interpreter who testified for plaintiffs, not once, but twice, and not on the same tablet, but on two different ones. The basis of the present allegation of the plaintiffs as to the mistaken assignment of dates is that the date assigned to Yap Puan Niu's death corresponds exactly to the proved date of Sy Quia's death, to wit, the 9th day of January, 1894. There is nothing in the record that could support this contention. Where can we find in the record of the case that the 9th day of January, 1894, corresponds to the 3d day of the 12th moon of the Kui Hsu year? Nowhere; the record only tells us that the Kui Hsu year is the year 1894; but that is all. The dates of the Chinese calendar are not dates of which this court can take judicial cognizance, as no judicial cognizance can be taken in regard to foreign laws. It was the duty of the plaintiffs at the trial of the case to prove the corresponding dates as shown by the tablets and the translation to the dates of the Christian calendar. It is a question of fact susceptible of proof, not one to be established by mere argument of counsel.

Plaintiffs in their brief make the statement that on pages

650-651 of the record the court unqualifiedly declared the tablets inscribed by Sy Quia and Yap Puan Niu as fraudulent and fabricated because it appears from the translation made of the tablets by the interpreter Li Ung Bing that Sy Quia died in 1891, whereas he actually died in 1894. To support this statement as to the lack of foundation of the charge made by the court below, plaintiffs attempt to bring now to the record a comparative almanac issued by the Department of Commerce and Labor and published by the Government Printing Office in 1904, thus seeking to bring in the record as evidence something that must be proved like an ordinary fact and of which the court can take no judicial cognizance. We might protest against plaintiffs trying to prove by something extraneous to the record that the 9th day of January, 1894, corresponds exactly to the third day of the 12th moon of the Kuan Hsu year, but we are ready to meet them on their own ground. In the first place, this new piece of evidence brought in by plaintiffs only dates from the year 1849. Their argument to prove the correctness of the tablets as regards the date of the birth of Sy Quia is that the Kui Wie year, as given in this almanac, corresponds to the year 1883. They are correct in that, although they have not stated that the first day of the first moon of the Kui Wie corresponds to the 8th day of February of the year 1883. But where they are mistaken in their computation is as to when did the year Kui Wie occur before the year 1883. Their statement in their brief that it corresponded to the year 1882 is misleading and incorrect. If the year Kui Wie started on the 8th day of February, 1883, it could not have occurred in 1822, but in 1823. As a matter of fact, the 4th day of the first moon of the year Kui Wie corresponds to the 13th day of February, 1823. By reference to page 488 of the record, and also to Exhibit "AB," which is part of this record introduced in evidence by the plaintiffs, it will be seen that on the tombstone of Sy Quia there is the following inscription:

"Born in February, 1882."

We have here a discrepancy between the date of the birth of Sy Quia as given by the tablets offered in evidence by the plaintiffs and the date of his birth appearing in the inscription on the grave, introduced also in evidence by the plaintiffs. How can this discrepancy be explained except by the fact that the tablet must have been made simply by calculation and not according to facts? Plaintiffs try to explain that the interpreter has made a mistake in assigning the dates. Plaintiffs present an arrangement identical with that which appears in the tablets themselves, but that arrangement looks much neater as it appears printed in their brief than in does in the original Chinese, which is made part of this record. They give below each arrangement the corresponding date on the Gregorian calendar, and base their argument on the fact that it is proved that Sy Quia died on the 9th day of January, 1894, and therefore columns Nos. 1 and 4 of the arrangement corresponding to tablet No. 1 correspond to Sy Quia and the columns Nos. 2 and 3 correspond to Yap Puan Niu. This argument is specious, inasmuch as it brings in extraneous subject matter to prove the assignment of this date in the tablet. The tablet must speak for itself, as must the translation made of it by the interpreter Li Ung Bing. The tablet must be read as the interpreter read it, for what it says and the way it says it. Now, plaintiffs acknowledge and admit that the reading of the Chinese language is made vertically and from left to right. Without other explanations, it must be read in that order as we read one line after another in our own system of writing. Against the arrangement, therefore, given by the plaintiffs the defendants present the following arrangement:



Born Time of Jen 4th Day, 1st Moon, Kui Wie Year
Born Time of Jen 12th Day, 3rd Moon, Ting Hai Year
Deceased Grandfather Mr. Sy Tiong Quian. Deceased Grandmother Sy Yap Si, her virgin name Puan Kien
Died Time of Su 22nd Day, 11th Moon, Sin Bau Year
Died Time of Hai 3rd Day, 12th Moon, Kui Su Year

Born 1823
Born 1827
Deceased grandfather etc. Deceased grandmother etc.
Died Dec. 22, 1891
Died Jan. 9, 1894

This tablet, as it stands and as it reads, according to the arrangement above given, certainly does not in the least convey the idea that Sy Quia died on the 9th day of January, 1894, and Yap Puan Niu on the 22d day of December, 1891. The tablet, as it stands, reads conclusively that Sy Quia was born in 1823 and died in 1891, and Yap Puan Niu was born in 1827 and died in 1894; it is because

it reads so, and because it was proved that Sy Quia died on the 9th day of January, 1894, that the appellate court below concluded that the tablet was false and fraudulent: 1st, because it makes Sy Quia come to the world a year after he did and kills him three years before he actually died, and, 2d, because, though it may give the correct date of Yap Puan Niu's birth (this we do not know, because no witness has been able to give it with certainty), it makes her live three years more than the majority of their witnesses say she actually did live.

Let us now compare Sy Quia's and Yap Puan Niu's tablet with that of Sy Bi Bo's and Sy Bi Git's. It may be seen that the last two show location of the grave. The tablet of Sy Bi Bo gives the location of his grave. The tablet of Sy Bi Git gives the location of both his and the grave of Yap Sun Niu. Is it not rather peculiar that we find no trace of where Yap Puan Niu is buried, in a tablet which is supposed to perpetuate her memory and let her descendants know where her bones are resting? Let us compare this tablet again with tablet No. 3. Is it natural that a tablet intended to perpetuate Yap Puan Niu's and Sy Quia's memory should be written in the careless way in which it appears, on one face only, with the characters all confused and some of them overlapping, when, as it appears in tablet No. 3, it could have been written where Sy Bi Git's wife appears written, that is to say, on the back of the front slide, which is the logical and reasonable way of writing, and where no mistake can be made, and no explanations required outside of themselves, as to the dates of the birth and death of the respective parties? Again they will insist that no special standard has been given as to the way the tablets ought to be written; that, written as they are, and taken in connection with the evidence adduced by the witnesses, the fair interpretation of those tablets should be made to conform to that testimony. We are also ready to meet them on this ground. Let us refer to the testimony of Yap Chong, al-

ready quoted at page 37 of this brief, where, pressed to give a definite fact from which the date of Yap Puan Niu's death could be established to a certainty, he has given us her death as occurring in the year 1894, thus supporting and bearing the date given in the tablet. And he is a *relative* of Yap Puan Niu, and the others are not. What we have shown as regards Sy Quia's tablet, is also true as regards Sy Bi Bo's. There we have also the same crowding of characters as in tablet No. 1, with the same mistake committed if we are to read the tablet as it stands alone, without outside explanations. Let us read this tablet No. 2 as it stands. It reads that Sy Bi Bo was born in 1848, and died in 1893, and Ho Gim Niu was born in 1850 and died in 1882, thus corroborating the translation made by the interpreter, who read it as it reads and not as plaintiffs' attorneys claim that it should be read. Plaintiffs will say that tablet No. 3 conforms to the facts and therefore that the court was not justified in pronouncing that tablet false. We reply that they have either to admit that the tablet is correct, and the testimony of the witnesses incorrect, or *vice versa*. All the witnesses for the plaintiffs have stated that Si Bi Git and Yap Sun Niu only had two children, Sy Yoe Ling and Sy Chiao Niu, and tablet No. 3 tells us that Sy Bi Git had another child whom nobody has accounted for, even his own alleged brother, Yoe Ling. We also invite this court to look at the characters written by the Chinese witnesses at pages 74-A, 74-B, 74-C, 339 and 379 of the original transcript of the depositions taken in China and made part of this record; also to the names Yoe Ling, appearing in Chinese characters in tablet No. 1, and in the translation of that tablet made by the Chinese interpreter Li Ung Bing. Compare these characters with the characters reading Yoe Ling in tablet No. 3, and in the translation of that tablet made by the Chinese interpreter, Li Ung Bing, and also at page 330 of the original transcript of the depositions taken in China and made part of this record, and it will be seen that *those characters do not cor-*

*respond.* It may be argued that they read the same; that both read Sy Yoc Ling, and that therefore they mean the same person. To this we answer with the following extracts from the original transcript of depositions taken in China (pp. 341, 347, 351, 352).

Witness Sy Boan (page 350):

"Can you write the name Sy Yoc Ling with different characters from those you have written at the top of page 339?

"Yes, Ling is a different character.

"Will you please write with that different character?"

The witness writes:

Again at pp. 351-352:

"What is the correct way of writing these different names in Chinese characters? As you wrote them first or as you wrote them the second time when you were instructed to use other characters?"

"The names I have written the first time.

"Is it not true that although you have used different characters the second time, those characters represented the same names and persons?"

"They would denote the same persons *but pronunciation only*. I mean where the characters are different.

Page 246:

"Are you sure that the Chinese characters you have written here this morning on pages 336-337-338 & 339 are the faithful and correct expressions of the names of the parties which you have referred to?"

"They are."

Page 347:

"Can (those names) be represented also by other characters than those you have written this morning in the aforesaid pages?"

"But those names as I have written this morning

are the correct names in Chinese characters of the parties referred to. In China a man's name may be represented by different characters having the same pronunciation, but the characters I have written are the correct ones for their names."

Let us finally turn again to page 351:

"\* \* \* But to write a man's name correctly we must give it in such characters as will be recognized by his wife, his sons, his grandsons and relations."

Is it logical that in a secret tablet, in a tablet to perpetuate the memory of the different members of the family, the name of one of the parties who are supposed to have signed it (nothing appearing to the contrary), should be written with a different character, a character with which the witnesses for the plaintiffs themselves tell us they designate the person only by pronunciation, that is to say, phonetically, but not in the way it should be known to his wife, children, grandchildren and relations?

Does not this cast suspicion on this tablet, or on tablet No. 1, the more so when it appears coupled with another name which nobody has been able to account for, to wit, the name of Yoc Boon?

What explanation can we find in the record itself of all these contradictions? What explanations have plaintiffs given in regard to them? Clearly the findings of the appellate court below as to the fabrication of the tablets is justified.

Before leaving the subject of these tablets, we desire to call attention to certain following parts of the testimony of Li Ung Bing and Sy Pong.

The examination of Li Ung Bing (Rec., 113) reads:

"Where are the tablets kept? And by whom prepared?

"They are kept in the family temple, and pre-

pared by the descendants, in the presence of all relatives and friends of the family *immediately after* the death of a parent.

"Where is the grave record kept and by whom prepared?"

"The grave record is kept inside of the grave, and is prepared by a man of high social standing, chosen by the family for the purpose in the presence of friends and relatives of the family; this record may be written or engraved on some stone which is buried beneath the coffin in the grave.

"If a person dies out of China, when is the grave record made?"

"No record is made in China *at all* if a man dies out of China."

If, according to this witness, the tablets are made *immediately after the death of a parent*, how is it that in spite of the long lapse of time between the deaths of each of the parents, they appear in the same tablet and, which is still more remarkable, on the same face of such tablet? And this is the testimony of Li Ung Bing, the law expert, called by the plaintiffs, on direct examination.

This same witness testified (Rec., 116) that he did not believe the head of a family in China would permit such tablets as these which are kept in the family temple to be taken out of China, such tablets and grave records *being regarded as sacred in China*.

Neither do we, since, according to this witness, there are family records (Rec., 112), that bear evidence of the marriage, which the plaintiffs could have presented without running the risk of committing a sacrilege.

Witness Sy Peng, pages 167-174-178-179-180:

"Did you see when these tablets, Plaintiffs' Exhibits 1, 2 and 3, were made after the death of the respective persons mentioned therein?"

"I did not see the preparation of these tablets.

"When did you see them for the first time?"

"Several weeks ago, when Yoc Ling invited me to see them before they were taken out of the shrine.



"These Tablets have been made according to the custom in China, have they not?"

"Yes. On the day of the funeral the tablet is put in a special chair and took part in the funeral procession, nothing was in this tablet, I mind you, but when the coffin was ready to be entered a man is asked to put a dot on the tablet. After this, a day is chosen when the name, location of the grave, and so forth, is written on it; this is the custom prevailing here.

\* \* \* \* \*

"In your cross-examination as appears upon p. 116 of this record, you were asked 'When did you see them for the first time,' indicating or referring to the 3 tablets marked Plaintiffs' Exhibits 1, 2, and 3, to which you answered, 'Several weeks ago, when Yoc Ling invited me to see them before they were taken out of the shrine,' do you wish to make any change or correction to that answer, if so state what."

The question was objected to as decidedly leading, and also on the ground that corrections of this kind, to be valid, must be spontaneous; whereupon the question was withdrawn without being interpreted to the witness.

"When did you see these three tablets for the first time? That is, Plaintiffs' Exhibits 1, 2 and 3.

"At the time the funeral took place after the deaths of the respective parties therein referred to. Some of these tablets are more than twenty years old, and some more than ten.

"In view of this answer and your answers in direct examination what have you to say about your answer to the question 'when did you see them for the first time,' and your answer thereto 'Several weeks ago'—appearing upon page 116 of this record."

Defendants again objected to the question on the ground that the record speaks for itself.

"Witness answers: In answering that question in cross-examination yesterday, *I meant the first time*

*I saw them, immediately prior to their transportation, which was several weeks ago.*

"Why is it that when we asked you yesterday when you had seen the tablets first, you told us that it was a few weeks ago only.

"I thought you meant when I saw them the first time prior to their being taken down here.

"You stated yesterday that at the time of carrying the body to be buried the tablets go behind the coffin, and that once at the grave the tablets are marked, is not that so?

"Yes. After that when the letters were written on it.

"You said that you had not seen the tablets being written upon, is it not?

"Yes. I was not there when they were written on. *The custom is they are to be written on three or four days after the day they are marked; this day must be a specially chosen day, good and lucky day, I mean.*

"If the tablets had not been written upon, how could you say whose tablet it was, I mean yourself, how could you, yourself?

"I can identify the tablets as the ones I saw in the funeral procession.

"By what means?

"I saw these tablets at the funerals; then when they were to be taken down to Amoy, for the purpose they are here for, Yoc Ling asked me to go and help him take them out of the shrine.

*"Then the second time you saw these tablets was about 20 years after the funeral, when they were not yet written upon, and in fact the first time that you read the tablets and found out whose tablets they were, was only a few weeks ago, when, at the invitation of Sy Yoc Ling you went to take them out from the shrine to be brought down here to Amoy, is not that correct?"*

"Yes. Yoc Ling invited me to go there at the time these tablets were to be taken out of the shrine because it was a very important family affair and he wanted me to be the witness, just the same as if he were going to transfer some real estate, on which

occasion I, as an elder, am always required to be present.

"Have you read the tablets, Plaintiffs' Exhibits 1, 2 and 3, before taking them out to be brought down here and before testifying in this case?"

"Yes, I have. *On the anniversaries of the days of death of the persons therein referred to I have been invited to dinner, and I saw and read them on such days.*"

If, according to Li Ung Bing no record is made at all when a person dies out of China and if, according to the witness Sy Peng, the tablet takes part in the funeral procession and accompanies the coffin and is marked at the time of the burial, how could Sy Quia have any tablet? How could this tablet have accompanied the funeral procession of Sy Quia if he died in Manila? And how could Sy Peng have seen that tablet at the funeral?

Has Sy Peng given a satisfactory explanation as to the means that served him to identify these tablets as the very ones he saw at the funeral when there was nothing written on them?

We also invite attention to an incident which appears at page 163 of the printed record.

And now we leave the tablets to the oblivion they deserve, confident that their *ex post facto* nature has been shown beyond a doubt.

**DEFENDANTS' EVIDENCE.**

Under statement No. 1, *ante*, plaintiffs allege that the man Sy Quia, to whom plaintiffs' witnesses refer, is not the same one who was later known as Vicente Romero Sy Quia. The name, as pronounced, did not correspond to the name by which Sy Quia was known and called in Manila. The name as pronounced and given by the Chinese witnesses who testified both in China and in Manila, with the exception of the witness Sy Hien, had a distinct nasal sound which the name of Sy Quia never had (Rec., 129). It will be seen that plaintiffs agreed that the name of Sy Quia, as pronounced by the Chinese witnesses, should be given a different spelling. We would not have insisted further, but for the fact that later on, and while the depositions were being taken, the witness Sy Boan, when asked if he knew Sy Quia, answered that he never heard that name before, and on being asked if he knew the man *Sy Quian*, answered: "Yes; Sy Quian I know" (Rec., 260). But the most important fact on which we rely for this contention is the one we have mentioned at page 40 *ante*. Plaintiffs were fully aware of the great difference between the sound of the name as given by witnesses for the plaintiffs, and the name of Sy Quia, when they tried to identify this person by the way in which the name was written. For this, they asked several witnesses to write the name of the man to whom they referred in Chinese characters, and then had the witnesses testify to the fact that the man who was represented by those characters was the same man who later on was known in Manila as Vicente Romero Sy Quia.

So far as the witnesses who testified in China are concerned, this manner of identification ran very smoothly, but when Sy Hien, the brother of Sy Quia, was put upon the stand to write the latter's name, pursuant to this manner of identification, he gave three Chinese characters, that read "Sy Quia," as against the other two which the other witnesses

wrote. We have before commented upon this incident on page 40 of this brief, and therefore we only confine ourselves now to refer to it in support of our contentions.

**Sy Quia Was in Vigan and Not in China in the Years 1847-50.**

To show that Sy Quia was not in China in the year 1847, as alleged by plaintiffs, defendants introduced the testimony of Mr. Remigio Tongson, who testified as follows (Rec., 313-314):

"Did you know Don Vicente Romero Sy Quia?

"Yes, I knew him; being little more than a child.

"How old was D. Vicente Romero Sy Quia when you knew him for the first time?

"Approximately thirteen or fourteen years.

"How much time elapsed from the time that you knew D. Vicente Romero Sy Quia for the first time until he was married?

"From the year 39 or 40 until 53 when he married and I continued dealing with him after he was married until his death.

"Can you tell us where he was residing or rather where D. Vicente Romero Sy Quia was residing during this period of time?

"I knew him in Manila and he came to Vigan before he married.

"How long was Mr. Sy Quia residing in Vigan before he married?

"I don't know exactly, but in the year 1847 when I was married to my first wife, Mr. Sy Quia was already in Vigan.

"In that year 1847, what idea was had here in Vigan of Mr. Sy Quia in relation to his civil status?

"He was single."

Our adversaries seek to discredit this witness only because he is not able arbitrarily to state accurately Sy Quia's age in the year 1847. But he fixes the date of the arrival of Sy Quia in Vigan, P. I., as 1847 by the circumstance that he, the witness, married his first wife in that year.

The next witness, Estefania Crisologo tells us (Rec., 321), the following:

"Did you know D. Vicente Romero Sy Quia?

"Yes, I knew him.

"In what year did you know him for the first time and why?

"I knew him because in those days we got clothes from them to sell on commission.

"Who are 'them' that you refer to and from whom did you get clothes to sell on commission.

"Them; the Chinese, because they are many who live in the same house.

"Among those Chinese was Sy Quia?

"Yes, sir.

"In what year did you know him for the first time, more or less?

"About the year 1848 when he was in Vigan.

"What was the civil status and the age of D. Vicente Romero Sy Quia when you knew him for the first time.

"He was single, and appeared to be about 26 years or 27 years old, more or less."

In their criticism of this witness' testimony plaintiffs do not allege anything that will discredit her. They tried to point out a false statement by the witness as to the 5,000 pesos which she testifies Petronila Encarnacion's mother gave her when she and Sy Quia went to Manila, but in regard to this statement we will apply to this witness also the remarks we shall further on make, when we come to discuss the testimony of Silveria Damian, another witness for the defendants, page 67 of this brief.

The witness Alejandra Singson testifies (Rec., 326):

"How long before her marriage with Mr. Sy Quia did you know the said Sy Quia?

"Some seven years.

"Where did D. Vicente Romero Sy Quia reside during the time that intervened between the date that she knew him until he got married to Da. Petronila Encarnacion?



"He lived in the house of Lavin and Da. Benita Encarnacion here in Vigan."

Our adversaries seek to discredit this witness for her inability to compute the exact age of Sy Quia when she knew him. We reply that a mistake of one or two years in this particular is not so serious as to discredit a witness's testimony. On the contrary, we think it is but natural that she should have made that mistake. The fact still remains that Sy Quia was in Vigan about 1847 or 1848.

The witness Silveria Damian testifies (Rec., 342):

"Did you know D. Vicente Romero Sy Quia?

"Yes, sir. I knew him.

"What year did you know him?

"When Sy Quia arrived here I think it was the year '48, more or less.

"How did you come to know Mr. Sy Quia?

"Because my husband first arrived in Vigan and Sy Quia stopped in our house here when he arrived in Vigan, because my husband and Sy Quia are countrymen."

Under cross-examination she testifies (Rec., 344):

"How long did your husband live in Vigan before you got married?

"More than five or six years, approximately.

"How long, more or less, did your husband live in Vigan before Sy Quia came here?

"Two years only."

In addition to much minor dissection of this witness, plaintiffs also attack her as having stated that she saw the delivery to Dona Petronila Encarnacion by the latter's mother of five thousand pesos at the time of the marriage, and as a marriage portion. The witness does not state any such thing. She states (Rec., 344-5) that Petronila Encarnacion received from her mother 5,000 pesos when she went to Manila, married to Sy Quia. She never said that

Petronila received this money at the time of the marriage and as a marriage portion. To contradict her statement our opponent's brief quotes pages 47, 51, and 81 of the record, where it is stated that Petronila Encarnacion inherited from her mother the sum of 5,000 pesos. This does not contradict the witness in the least. Petronila Encarnacion could have received those 5,000 pesos from her mother at the time Silveria Damian says she received them, and at the same time the same could correspond to the share of inheritance from her mother assigned to her in the partition of her mother's estate.

Notwithstanding the attempts of plaintiffs to discredit our witnesses, we submit that their testimony satisfies any impartial mind that in the year 1847 Sy Quia was in Vigan and not in China, so that it could not be possible for him to be married in China in that year.

The testimony of these witnesses (Rec., 313-345) proves also fact "A" appearing under statement of facts No. 2 *ante*, which has also been admitted generally by plaintiffs, although they allege that there has been an interruption in Sy Quia's residence in Manila during that time.

As regards fact "B" under statement of facts No. 2, *ante*, it is not only proved by the oral testimony of the defendants' witnesses, but also by exhibit No. 1 of the defendants, which is the entry of the baptism of the Chinaman, Vicente Romero Sy Quia (Rec., 13), and the authenticity of which has been admitted by plaintiffs by stipulation (Rec., 33).

Fact "C" of statement of facts No. 2 of the defendants, *ante*, has been proved not only by the testimony of the witnesses of the defendants, but by the testimony of the witness Sy Hien, a brother of Sy Quia, who testifies as follows (Rec., 430):

"What relationship existed between Sy Quia and the said Petronila Encarnacion?

"She was his *legitimate wife, married to him, and he had children by her.*"

Attention is also invited to the entry of the marriage of Vicente Ruperto Romero Sy Quia with Dona Petronila Encarnacion, marked Defendants' Exhibit No. 2 (Rec., 14), the authenticity of which has been admitted by plaintiffs by stipulation (Rec., 35).

Fact "D" of statement of facts No. 2 of the defendants, *ante*, is not only proved by all the witnesses for defendants and by some of the documentary evidence also introduced by them, but is also admitted by plaintiffs.

Statement of facts No. 7 of the defendants, *ante*, has been duly proved by their exhibit No. 8 (Rec., 18-20, 80-86).

In support of statement of facts No. 8, the defendants' witness, Remigio Tongson (Rec., 314), testified that before Sy Quia married Dona Petronila Encarnacion he was not rich, but only had an ordinary living; that when he came to Vigan he was only a trafficker, with a small amount of effects, and could not have been rich.

Estefania Crisologo testified (Rec., 322-3) that Sy Quia's occupation when she first knew him in Vigan was selling clothes to the mestizos there, and that he had no store there, being only an agent of his uncle, D. Jose Gloria Lecaros; that she knew Petronila Encarnacion's mother gave her, Petronila, five thousand pesos when she and Sy Quia went to Manila, and witness knew it because Da. Bittang, Petronila Encarnacion's mother, told witness and Sy Quia told witness also, because they frequented her (witness's) house, being friends.

The witness Alejandra Singson (Rec., 327) testified that Sy Quia, when she first knew him, was only an agent, who received a salary of two hundred pesos a year; that he had no store, and worked as an agent of Gloria Lecaros, and she knew it because the latter had told her so.

Another witness, Silveria Damian (Rec., 342-343), testified that at the time Sy Quia married Petronila Encarnacion, he, Sy Quia, was an employee of Gloria Lecaros, as were also the witness and her husband, and that Sy Quia

and witness' husband were both employed at the salary of two hundred pesos a year; that Petronila Encarnacion received five thousand pesos from her mother after she married Sy Quia, when she and Sy Quia went to Manila, said money to be used as capital; that she knows this because she, the witness, saw the delivery of this money to Petronila Encarnacion when they were about to leave for Manila.

**Was Sy Quia Single When he Married Petronila Encarnacion?**

The plaintiffs, to prove the marriage alleged by them between Vicente Romero Sy Quia and Yap Puan Niu, introduced several witnesses, among them being a man by the name of Li Ung Bing, who, in describing the marriage ceremony in China, testified as follows (Rec., 112):

"To begin with, the laws of China are all negative: the equivalent of legal marriage, as used in the statutes of China, is a phrase consisting of four characters, viz, 'Min meu chen ch'u,' literally meaning, 'Publicly, mediated and rightly married.' In China, the boy and the girl, irrespective of their ages, are not competent to marry themselves, they must be married by a competent authority of their respective families, in other words, the heads of such families, and all arrangements must be made through certain mediators; the business of the mediator is to give the history, circumstances and wishes of the families to one another; also to arrange about the presents to be given by the futura groom to the bride and to see that the *marriage letters are properly exchanged* between the heads of the two families. When the presents are made and accepted and the *marriage letters exchanged, the tie is considered to have been made under the law, so to speak \* \* \**"

And again (Rec., 118):

"Q. You have referred to the marriage letters crossed between the two families, would you kindly

tell us what those letters usually contain and by whom are signed, and if the law regarding the same is written or unwritten? A. *The law makes reference to such letters*, but does not prescribe the form. This is a very ancient custom dating back to more than 3,000 years ago, and the forms have been varied at different times and are different in different places in China. At the present time, however, the principal features are the same. It contains that the competent authority of one family, or the head, is willing to betroth the son or daughter to the other family to be the husband or the wife of the son or daughter of the other family, as the case may be, giving the names of the parties and their respective ages. As a rule, such letters are couched in the most humble phrases one can find in the Chinese language."

From the above we may deduce that one of the essential elements of the celebration of the Chinese marriage is the interchange or crossing of the marriage letters. The plaintiffs, to prove the alleged marriage, have presented several witnesses who, among other things more or less relevant, testify to having attended the marriage ceremony, but they have not produced before the court the marriage letters which should have been exchanged by the families of Sy Quia and Yap Puan Niu, because, in accordance with the testimony of Li Ung Bing, above quoted, the law considers the marriage as having been contracted only when that exchange of letters has taken place.

That in China marriage certificates are the best evidence of marriage and are preserved is corroborated by the testimony of the witness Sy Hien, who testifies (Rec., 427):

"Are you married?

"Yes sir.

"Where were you married?

"In China.

"Where are your marriage certificates?

"I have always left them in my *pueblo*."

There is no proof in the record on the part of plaintiffs tending to show that the marriage letters were destroyed, lost or mislaid, and, therefore, the law does not excuse them from the obligation of producing same as the best evidence of the marriage. The non-production of said letters carried with it necessarily either the logical consequence that they have never existed and that therefore the bond was never had in law, or the presumption "*juris tantum*" established in No. 5 of article 334 of the Code of Civil Procedure now in force, which says:

"ART. 334. Disputable Presumptions. The following presumptions are satisfactory, if not contradicted; they are disputable and may be contradicted by other evidence: (5) that evidence willfully suppressed would be adverse if produced."

It is not sufficient, then, in accordance with the presumption "*juris tantum*" which we have just quoted, that in proving the existence of a marriage the testimony of witnesses who say they have been present at the marriage ceremony be alone introduced, if the laws of China, where the marriage is alleged to have been celebrated, requires that there be a written contract, to wit, the marriage letters, as testified to by the witness Li Ung Bing, the exchange of which, together with the giving of presents, are necessary to give validity to the marriage as a *legal one under the law*.

The following authorities confirm or corroborate what we contend:

"Jewish Marriage. In *Horn vs. Noel*, 1 Campb., 31; *Moss vs Smith*, 1 M. & G., 228; E. C. L., 425, it was held that the Jewish marriage consisted of both a written contract and the ceremony at the synagogue, and could not be established by the testimony of witnesses to the ceremony, as the contract and the signature must be proved."

The exchange of the marriage letters between the two families having once taken place would, according to the



witness Li Ung Bing, constitute the marriage as perfected, and is the only competent evidence to justify the allegation of the alleged marriage. Article 285 of the Code of Civil Procedure states:

"When the terms of an agreement have been reduced to writing by the parties, it is to be considered as containing all those terms and, therefore, there can be between the parties and their representatives and successors in interest, no evidence of the terms of agreement other than the contents of the writing."

If plaintiffs urge that the witness Li Ung Bing, in answer to the question as to what would be the effect of the tablets and funeral inscriptions of the family if the marriage letters, the list of presents and the rest were lost, stated that said tablets, once identified, would constitute complete evidence, we answer that no evidence has been introduced tending to show the loss or destruction of the marriage letters. And we have already fully dealt with the question of the genuineness of the tablets and inscriptions.

It is on its face highly improbable that a woman who was really the wife should be in the Philippines, as Yap Puan Niu was (according to the testimony of the witnesses of the plaintiff), abandoned by her husband, who did not live with her, and who, on the other hand, was publicly living with Doña Petronila Encarnacion, and that Yap Puan Niu, during the entire time she was in Manila and during her whole life, did not insist upon enforcing her alleged marital rights nor those of her children. We cannot understand, either, his alleged children, Sy Bi Bo and Sy Bi Git, should allow all their lives to pass, seeing themselves shut out of their own rights by other children, without even saying a single word in their own behalf. Under the marriage law in force in the Philippine Islands, when Sy Quia contracted canonical marriage with Doña Petronila Encarnacion, he was a pagan when he married in China, and on becoming a Christian could only

break his matrimonial bond contracted in accordance with his former religion if the spouse who remained pagan did not want to live with him or should refuse to enter into his own belief. Following is how the 3d law, title 10, 4th Partida, states this:

*"Contumelia creatoris*, which is equivalent to 'offense to God' and to our faith, is like spiritual fornication, because it may happen that divorce might take place between some who were married, and this would be as if some of us who were Moors or Jews, or being already married according to their law, some of them become Christians and the other wishing to remain in his religion do not desire to live with him, or if he should desire so to live, should insult God many times before him and also our faith, or should deny him every day trying to make him live the Christian faith and return to that which he had abandoned: and for any one of these three reasons, the Christian man and Christian woman can abandon the other without asking permission of anybody and he may marry another woman or man, if it is so desired, but before doing this, that is to say, before leaving her or him, he or she shall call good men and complain to them that the impediment he has and the reason why he or she wants to leave the other, and it will be necessary that those persons who shall be called for this, shall hear them and be sure that one of these reasons exists, so as to be able to use them as witnesses, if necessary."

The following law, that is to say, law 4, title 10, Partida 4, provides as follows:

*"Iniciatum, ratum, consumatum*, means that which has a beginning, continuance and end, and these three things exist in the marriage which is made rightly between Christians, and they do not exist in the other marriages made according to other laws, because in the other marriages which those who are non-Christians celebrate between themselves, have only two of these three things, viz: the beginning and the end, but not the second one which is firmness,

and for this reason there is a difference between marriages celebrated among Christians and those of non-Christians, because according to Holy Church marriage, can never be set aside, when it is rightly made, although there be a separation, but always exists during the lives of those who contract it, and none of the parties to this contract can marry again while the other is living. But in other marriages which are made according to other laws they can be, either by repudiated libel or from any of the other reasons laid down in previous laws, so that one, during the life of the other, may marry."

On August 31, 1839, the Governor General of the Philippine Islands issued a decree referring to the Chinamen in the Philippine Islands, articles 18 and 19 of which read as follows:

"ART. 18. Every Chinaman who shall desire to marry a native or mestizo woman, must come to the Governor with his baptismal certificate, that of his future wife, the consent of her parents or elders, the certificate of having been enrolled as a Christian and the certificate of the parish priest, which shall certify to his having been instructed in the Christian doctrine.

"ART. 19. Upon presentation of these requirements, a license will be given to him with all the provisions made for these cases by the decree of this superiority of July 6, 1827."

After reading all these laws and referring to the canonical laws and procedure governing the celebration of marriages in the Philippine Islands at the time that Sy Quia married Petronila Encarnacion, as given by the witness Juan Sanchez (Rec., 561, 566), which were in force in the Philippines until General Order No. 58 of the Military Government of the United States in the Philippine Islands was issued, and taking into consideration the corroborated testimony of the witness Roman Gray (Rec., 316), who saw the record of the investigation made in accordance with the provision of the last-

named laws, we must perforce come to the conclusion that either Sy Quia was single or he had obtained in accordance with the law a divorce which allowed him to contract a new Christian marriage.

We have seen already how by the decrees of the supreme government of these islands, dated July 6, 1827, and December 20, 1849, a Chinaman who wanted to contract marriage with a Filipino woman was required to have a license from the government, which was given to him after careful investigation, and not very easily; and if it is a presumption of law that public officials properly comply with their duties, and that the provisions of law have been complied with, and that the ordinary course of proceeding has been followed (sec. 334 of the Code of Civil Procedure), we have but to conclude that when the Governor General gave him permission to marry with a Filipino woman, Doña Petronila Encarnacion, it was either because it was well ascertained that he was single or because he showed, in accordance with the laws of Partida which we have just copied, that he was within one of the cases which, in accordance therewith, a marriage bond contracted while he was an infidel had been dissolved.

But there are some points in the record which confirm the first supposition, that is to say, that he was single, because we learn as well from the witnesses for the plaintiffs as by those of the defendants, that Sy Quia came to the Philippine Islands when he was a child 12 years old (see testimony of Sy Peng (Rec., 127) and Remigio Tongson (Rec., 312); that he spent his youth in Manila, that, being already domiciled in Vigan before the year 1847, he enjoyed there the public reputation of being single (Rec., 312-329, 333-346); that he continued in that status until he received holy baptism in 1862, and that he contracted marriage in 1853. Remigio Tongson (Rec., 312) states the following:

"Q. How long before Sy Quia was married had Sy Quia been residing in Vigan?

"A. I do not know exactly, but in the year 1847 when I married my first wife, Sy Quia was already in Vigan."

This witness knew Sy Quia in Manila when Sy Quia was 12 years old and the reason he gives for knowing the fact of Sy Quia having been in Vigan in the year 1847, which we have just quoted, is one of those which convinces the mind of the most impartial judge of its truth, because it is certain that a witness would remember the year he married his first wife, and remembering that day, he can fix that on which Sy Quia established himself in Vigan.

From the testimony of Roman Gray (Rec., 316), a clerk in the parish church of Vigan, we learn that in the canonical record of single freemen, which was made before Sy Quia's marriage, Sy Quia stated under oath that he was single in the year 1853. This data, we say, makes it more positive and probable that he was single than that he should have obtained the divorce mentioned in laws 3 and 4, title 10, Partida 4, above quoted. With what intention, then, could he have stated that he was single, if it were not with the intention to obtain authority to contract the marriage he desired with a Filipino woman? If the law then in force would have prevented him completely from contracting a marriage with a Filipino woman, then we may understand why he might have lied when he made that statement, but having other legal means of dissolving the bond which he contracted while he was an infidel, and when his wife did not reside with him, we see no reason why he should have lied; nor do we understand his good fortune in keeping on through life without anybody discovering it, during the long lapse of time in which he was known by the residents of Vigan. And this probably comes out most forcibly, if we take into account that, not only by the civil laws which we have quoted, but also by the canonical laws, he could, had he been married while he was an infidel, have obtained

a dispensation which would have enabled him to contract the marriage he did contract with Petronila Encarnacion.

It has been seen that by the civil laws of Partida he could have obtained the license which the decrees of the Superior Government above cited required, without having recourse to calling himself a single man, if he had in fact been previously married in China. Let us look now into the fact that he had no reason to lie in order to secure from the ecclesiastical authorities permission to contract another marriage, which could at that time be validly contracted in the Philippine Islands, and to which he aspired.

Father Francisco Gainza, in his work "Faculties of Bishops Beyond the Sea," speaking of the 11th Solita: "*Dispensandi cum gentilibus, et infidelibus plures uxores habentibus ut post conversionem, et baptismum, quam ex illis maluerint, si etiam ipsa fidelis fiat, retinere possint, nisi prima voluerit converti,*" states the following at page 90 of the second edition of his work:

"We have here many infidel Chinese married in their own country and once having taken residence in this country, wish to embrace Christian faith and do in fact embrace it, but they are those of whom Benedict XIV says that they baptize in order to contract marriage *sine quo fortasse non sumerent*. Many of them may be ignorant of whether their wives live, or at least where they reside. If one to be baptized is not allowed to marry here, they are exposed to a great many offenses to God as is, unfortunately, evident. If they are compelled to return to their country, besides the fact that they might be prejudiced in their commercial interests, which would be sufficient for none of them to embrace the Christian faith, they would be put in imminent danger to fall again into the idolatry to which they so tenaciously cling. If a judicial interpolation is to be made and the result thereof awaited, it is not a very simple thing, either because of the difficulty of making it reach the hands of his wife in such a Babylon as China is, or for the reason that it is also difficult



to find a person to make the judicial intimation and to certify that the interpolated woman does not want to be baptized, nor even live with her husband *absque injuria Creatoris*; and finally, when we know by experience that the women very rarely immigrate from China to these Islands, through the ill-founded fear that they may be compelled to embrace Christian faith, but also not even to the English or Dutch Colonies, nor even to the infidel countries, such as Jolo, Borneo, etc., where they desire them so much and where they could live with such unbounded liberty.

"Well, then, to obviate all these difficulties, which are not small or imaginary, we have the Bull of Gregory XIII, *Populis ac Nationibus*, of January 25, 1585, in which His Holiness, speaking of the negroes of Ethiopia, Angola, Brazil and other regions of the Indies, which were bought or made captives, being married in their own country and transported to other points in America, where, after a time, they wanted to become Christians and marry Christian women, he says, it is convenient to be indulgent with the liberty to contract marriage in order that some men who are in no way used to keep concubines, shall continue for that reason with lustful pleasure in the faith, and others, by their example, may not be restrained from embracing it, because many times it happens that many are transported from their native country and separated from their own spouses, to remote countries, so that the captives themselves, as well as those who remain in their country, be afterwards converted to the faith cannot interrogate (as must be done) those infidel spouses separated by such great distances from the localities, to see whether they want to cohabit with them without offense to the Creator, either because sometimes there is no way of making the news reach to nations and provinces which are hostile and enemies, or because they are ignorant as to what countries they have been taken, or on account of the distance, there is great difficulty—with fear for the present and with apostolic authority, we grant complete faculty to all the bishops of certain localities and to the parish

priests—to dispensate all the faithful of Christ of both sexes who live in those countries and to the slaves converted to the faith who have contracted marriage before having received baptism, that any one of them may leave his infidel wife or husband and without his or her consent and without waiting for the answer, contract marriage with any Christian, but that it may, on the other hand be done according to the rites of the Church and solemnized in *facie Ecclesiae*, and that they remain licitly in that marriage while they live, that marriage having been once consummated by sexual intercourse.

“Here we have the following doctrine, that in the cases comprised in the Bull, some of which are found only among the Chinese of these Islands, the second marriage can be proceeded with, omitting the judicial interpolation, but on the condition that it appear summarily and extrajudicially in each case, that it is not possible to do it or that, having been made, no positive results have been obtained and to many of the Chinese, if not to all, the first part of the same may apply to them for the reasons already enumerated.”

As to the application of the foregoing Bull to the Chinese in the Philippine Islands, the same Father Gainza explains the text and the practice in the following words, at page 94 of his work above quoted:

“As to its context, although the Holy Pontiff bases it on the slaves of Angola, Ethiopia and Brazil, he also adds ‘other nations of the Indies’ and in its dispositive part he expressly states ‘In order to secure dispensation to all and each one of the faithful of Jesus Christ living in certain countries?’”

Thus is it shown that, not only by the civil law, but as well by the cannon law, Sy Quia did not need to call himself single to carry into effect his desire to marry Petronila Encarnacion. Can anybody say that he lied merely for the sake of lying?

The plaintiffs have not impeached the record of the proceedings wherein Sy Quia was formally declared single, according to law, nor have they impeached any of the rest of defendants' evidence of that fact.

In view of the foregoing, we respectfully submit that we have completely negated plaintiffs' affirmative evidence tending to establish the alleged marriage in China, and that plaintiffs have in no wise shaken the presumption of law, fortified by our overwhelming affirmative evidence, that Sy Quia was single at the time of his marriage to his Filipino wife.

#### **Yap Puan Niu's Visit to Manila.**

In an effort to prove the fact that Sy Quia was married to Yap Puan Niu, plaintiffs, through their witnesses, have shown that Yap Puan Niu came to Manila several times, and have attempted to prove that while she was there Sy Quia called on her several times. There is no satisfactory evidence in the record that Sy Quia ever did in fact visit Yap Puan Niu while she was in Manila. It has been proved that Yap Puan Niu did not stop at Sy Quia's house, but at Sy Ty's. None of the witnesses who testified that the visits of Sy Quia took place, have given a satisfactory explanation of how they knew it, when we bear in mind the Chinese custom that ordinarily the women are not visited by the men and that therefore these men could not have seen Sy Quia visiting Yap Puan Niu. Against all this testimony of occasional visitors, who did not live in the house where Yap Puan Niu stayed in Manila, defendants opposed the testimony of Ana Quang Su, the wife of Sy Ty, Sy Quia's brother (Rec., 530-555. She testified that she lived in the same house where Yap Puan Niu lived during her stay in Manila; was constantly with Yap Puan Niu while she stayed in Sy Ty's house; and never left the house during the whole time that Yap Puan Niu was there; and she distinctly says

that Sy Quia did not visit Yap Puan Niu at all. And her testimony remains unshaken.

Sy Quia's brother, Sy Hien, testified quite at length as a witness for the plaintiffs (Rec., 420 *et seq.*). It appears from his testimony that he was in Manila during the whole time that plaintiffs claim Yap Puan Niu was in Manila. Yet he does not remember her being there (Rec., 431), in spite of the fact that he lived in the same house.

### **Did Sy Quia Recognize Yap Puan Niu as His Wife?**

There is absolutely no documentary evidence in this case of any sort that Sy Quia ever in any way recognized Yap Puan Niu as his wife, or any of the plaintiffs as his grandchildren. Several of the plaintiffs' witnesses have testified orally, with a view of proving that Sy Quia sent letters and money from Manila at different times to his alleged Chinese family in China. But notwithstanding the oral evidence tending to establish the existence of written evidence to the same effect, no written evidence was produced that Sy Quia ever recognized Yap Puan Niu or any of the plaintiffs as they claim. On the other hand, Ana Quang Su, more than any one else, had opportunity to know who supported Yap Puan Niu, Sy Yoc Ling, and Sy Yoc Chai. If Sy Quia ever gave any money to Sy Ty for the support of Yap Puan Niu, Sy Yoc Ling and Sy Yoc Chai, certainly this witness would have known it, and there would have been written evidence showing it. The more so when the laws of the Philippine Islands then in force required a merchant to enter all transactions in his books. Sy Hien testifies that Sy Quia wrote him letters referring to Yap Puan Niu, Sy Bi Bo and Sy Bi Git, as well as to Sy Yoc Ling and Sy Yoc Chai. Not a single one of these letters has been presented, in spite of the fact that they were—theoretically—in existence at the time the trial took place. Their non-presentation has not been explained nor accounted for. It

is no excuse to say that they were in China, because plaintiffs took depositions of their witnesses in China and such letters could have been presented at that time.

### Who are the Plaintiffs in This Case?

As we read the title of this action, as it stands in this court, it would seem that the plaintiffs are Sy Yoc Ling, Sy Yoc Chai, Sy Hui Niu and C. W. O'Brien as guardian for Sien Han. If we turn to the testimony given by the Chinese witnesses in China and in Manila on behalf of the plaintiffs, we will find that Sy Hui Niu died about the month of February or March, 1906. Nevertheless, her name is still among the plaintiffs in this case, and as coplaintiff, we have C. W. O'Brien as guardian for Sien Han, who, the plaintiffs claim, is the heir of Sy Hui Niu. So that the dead mother and her supposed surviving infant son and heir are joined as co-plaintiffs in this action. Again, there is no evidence in this record showing affirmatively that Sien Han is in fact the son of Sy Hui Niu. All the witnesses who have testified as to this infant Sien Han being a son of the late deceased Sy Hui Niu testify only from hearsay. Sien Han's own father has not appeared to give the least information about his son, and yet it has been proven (Rec., 296) that Sien Han's father was in Manila and therefore could have been called to testify by the plaintiffs.

As regards plaintiff Sy Yoc Ling, the supposed son of Sy Bi Git, the tablets, and the testimony of the witness Sy Boan (*ante*, pp. 53, 56) raise a very reasonable doubt as to whether the Yoc Ling appearing in the questionable tablet No. 1 (the characters of which correspond to the characters that this plaintiff Yoc Ling claims to be the proper way of representing his name), and the Yoc Ling appearing in tablet No. 3 (the only tablet which appears without any formal irregularity), are one and the same person.

### **The Adoption of Sy Yoc Chai.**

As regards the plaintiff Sy Yoc Chai, has he proved that he is in fact the adopted son of Sy Bi Bo? Has any one of the witnesses for the plaintiffs shown that Sy Yoc Chai was adopted in accordance with the laws of China in reference to adoption? The only thing that has been shown in evidence regarding the adoption is through the testimony of Li Ung Bing (Rec., 116). He tells us that the laws of adoption are written and (Rec., 123) gives a citation of those laws; but they have not been introduced in evidence, and; therefore, without positive proof that the adoption of Sy Yoc Chai did, in fact, occur, the right which he claims to the inheritance must be governed by the Civil Code in force in the Philippine Islands, inasmuch as the supposed adoption of Sy Yoc Chai took place before the present Code of Civil Procedure of the Philippine Islands went into effect.

Section 177 of the Civil Code reads as follows:

"The adopter acquires no right to inherit from the adopted. Neither does the adopted acquire any right to inherit from the adopter, unless by will, excepting when the adopter in the deed of adoption has obliged himself to institute him as an heir. This obligation shall produce no effect when the adopted dies before the adopter. The adopted retains all the rights belonging to him in his original (natural) family excepting those referring to the parental power."

We think the foregoing sustains the finding of the Supreme Court in this regard set forth at page 667 of the record.

### **The Nine Silk Suits.**

Sy     en does not remember anything about dressing the eldest child of Gregorio Sy Quia in the nine suits at the funeral of Vicente Romero Sy Quia, notwithstanding the



fact that he was the one who directed that ceremony (Rec., 558). Yet we have the testimony of Macario Favila (Rec., 522-4), corroborated by that of Pedro Antonio Sy Quia (Rec., 550) and by Sy Yoc Chai (Rec., 495-6), whose uncontradicted account of these important ceremonies describes acts of this witness (Sy Hien), which impeach the testimony not only of the witness Sy Hien, but also of all the other witnesses for plaintiffs. If Sy Yoc Chai were the eldest child of Sy Quia's first-born child, it was he, and not Tomas Romero Sy Quia, who should have worn the nine silk suits. Yet, as a matter of fact, they had sent to school for Tomas Romero Sy Quia and got him and brought him to the house to wear the nine silk suits. The act of Sy Hien at the funeral ceremony, before this litigation was ever thought of, clearly contradicts plaintiffs' witnesses as to the relationship of Sy Quia to Sy Yoc Ling, Sy Yoc Chai, Sy Bi Bo, and Sy Bi Git. If the latter two had been the children of Sy Quia, and Sy Yoc Chai the eldest grandson, certainly Sy Hien would have ordered Sy Yoc Chai to wear the nine suits; but as he was not the son of Sy Bi Bo and grandson of Sy Quia, Sy Hien, intending to bestow the rights of the eldest child on the person to whom the same belonged, that is to say, on Gregorio Sy Quia, the eldest child of Vicente Romero Sy Quia, bestowed them, and in his absence, on Gregorio's eldest child, Tomas Romero Sy Quia. It was a Chinese ceremony; the defendants knew nothing about it and did not know of its importance and significance, and Sy Hien could very easily have performed it on Sy Yoc Chai or Sy Yoc Ling without any fear of scandalizing the wife and the children of Sy Quia.

**Sy Quia Never Did Acknowledge Any Relationship between  
Himself and the Plaintiffs.**

Against the testimony of Sy Hien, who intimated that Sy Quia had several times furnished money for the education of Sy Yoc Chai and Sy Yoc Ling, and had generally

recognized them as his grandchildren, we have that of Pedro Sy Quia, who tells us (Rec., 541-542) that his father never helped Sy Yoc Chai or Sy Yoc Ling in any way, nor did he ever send any money to China, and that he would have known it if such had been the case, first, because the money was kept in the house; and, second, because he acted as his father's and mother's cashier. If Sy Quia had given any money to Sy Ty for the support, maintenance, and education of Sy Yoc Ling and Sy Yoc Chai, this fact would have appeared necessarily in Sy Ty's book, because Sy Ty was a merchant, and, as we have already suggested before, as such he was obliged by law to keep an account of all his business, private as well as commercial; and that this is so is shown by the very book of Sy Ty which plaintiffs tried to introduce in evidence and in which appeared an entry of the loan made by Petronila Encarnacion to Sy Yoc Ling. This was as much of a private transaction as the others were, and yet it appeared in Sy Ty's books. If one appeared, why did not the others appear too?

When Sy Yoc Chai was put on the stand to testify as to the meeting he had with his alleged grandfather, he tells what conversation took place (Rec., 478):

"Hello, you have come"; and I said: "Yes"; then he said: "How did your grandmother die?" and I said she had been sick and that there was no remedy and there was nothing to do, and she died."

Does that conversation show that Sy Quia acknowledged Sy Yoc Chai's relationship to him as his grandson? What we have just quoted is the only definite statement put into the record as coming from Sy Quia's lips. *There is not a scrap of paper, not a receipt, not one written line indicating in the least that Sy Quia ever recognized or acknowledged plaintiffs as his grandchildren, in spite of the fact that Sy Hien, his brother (Rec., 427), said that he had three or four boxes full of papers, which may contain commercial documents or family documents of Sy Quia.*

although he is unable to state so definitely. Is it not strange that the plaintiffs did not ask this witness to look over these papers and documents and bring them in so as to have satisfactory evidence that could support all this testimony as to the acts of a man who cannot lift his head from the grave and contradict them and every one of their statements?

### Criticisms of Counsel on the Court Below.

To show how unjustifiable is the long line of severe criticisms upon the Philippine Supreme Court in the brief of our opponents, it will suffice to point out two samples illustrative of the method and merit of their attack. Though confident that the opinion of the court below will take care of itself when it receives the careful scrutiny which this court is sure to give it, we deem it our duty not to entirely overlook the ineffectual assaults of counsel upon it.

First as to the criticism of the reference in the opinion of the appellate court below to Lim Chio's testimony. The following portion of that testimony (Rec., 190), we submit, fully justifies the court's comment upon it:

"Did Sy Bi Bo and *his wife* have any children?

"Yes, two, one boy and one girl.

"What was the name of the boy?

"The name of the boy was Sy Yoc Chai."

Next comes the attack on the statement made by the court that Yap Si Tan testified that Yap Puan Niu had a natural child. The record fully sustains that statement of the court. The witness Yap Si Tan says that Sy Bi Bo had two children, one girl and one boy, and that the boy's name is Sy Yoc Chai (Rec., 203), and she also tells us (Rec., 205) that Sy Yoc Chai was born two or three years after Sy Bi Bo's marriage. In answer to a decidedly leading question made to the witness by the attorney for the plaintiffs, the memory of the witness is immediately re-

freshed and she tells us (Rec., 205) that Sy Yoc Chai is an adopted son. But, alas! the witness' memory is so much refreshed that she voluntarily tells us how, when and by whom Sy Yoc Chai was adopted. She proceeds to tell that Yap Puan Niu (Sy Quia's wife) had a natural son, and that when that son died Sy Yoc Chai was adopted. That Sy Yoc Chai is the son of Sy Bi Bo and the grandson of Yap Puan Niu. Plaintiffs might allege that it was a lapse of the witness to give the name of Yap Puan Niu in this connection. But this cannot be so, because twice this witness tells us (Rec., 211) that it was Yap Puan Niu who adopted Sy Yoc Chai:

"And you said that when Yap Puan Niu lost her natural child, she adopted Sy Yoc Chai?"

"Yes.

"Who was that child of Yap Puan Niu that died?"

"I don't remember. It is a long time ago.

"Is it not a fact that you have never known Sy Yoc Chai?"

"Yes, I have. I saw him when Yap Puan Niu took him with her on visits to her mother's home."

#### IV.

#### **Even if the Chinese Marriage Was Proven, Plaintiffs Cannot Recover Any Part of This Estate Under the Law.**

The exposition of this branch of this case which appears in the decision of Mr. Justice Torres, who delivered the opinion of the appellate court below, is so full, complete and concise that we submit the following extracts from it as conclusive on the points (see Rec., 656-658):

"Even assuming that the second marriage was void which was contracted by Sy Quia at Vigan while a former marriage alleged to have been performed at Amoy, China, was still in full force and effect, and upon which the plaintiffs in this case base their con-

tention, the second marriage, however, produced civil effects under the laws here in force in 1853, the time when it was performed. These laws are as follows:

"Law 3, title 3, Partida 4, provides in part as follows: Further, if people marry advisably [advisedly—*sic*], knowing that such impediment existed, and that for this reason they should not have married, the children which may be born will not be legitimate; but if only one of the contracting parties, and not both, was cognizant of the existence of such impediment, the children will be legitimate, for the ignorance of one of the contracting parties excuses them, and no one can say that they are not legitimate children.'

"Law 1, title 13, Partida 4, provides in part as follows: And even if it should happen that between those who are married manifestly in *facie ecclesia* such impediment exists which would require that the marriage be set aside, the children which may be born to them before the contracting parties knew that the impediment existed, will be legitimate. And this would also be the case if neither of the contracting parties knew that the impediment existed, as well as if only one of them had knowledge thereof, for the ignorance on the part of one of them would make the children legitimate. But if, after knowing with certainty that the impediment existed between them, they should have children, any that should be born subsequent thereto will not be legitimate. But if, while such impediment exists without the knowledge of both parties or either of them, they should be accused before the judges of the Holy Church, and before the impediment is duly established and final judgment entered, children be born to them, such children as may be born while the doubt exists, will be legitimate.'

"The Civil Code has merely reproduced with certain modifications the provisions of the old legislation in force in 1853 as to the civil effects of a void marriage where both parties married in good faith, as well as where only one of them acted in good faith, for whether one or both married in good faith, the marriage will produce civil effects only in favor of the



innocent spouse, and of the children born of this void marriage.

"If in all the acts of life good faith is to be presumed unless the contrary is proven, it cannot be denied that Petronila Encarnacion acted in good faith when she married Vicente Romero Si Quia in 1853, since there is no evidence in the record to the effect that she knew before or after her marriage that the said Vicente Romero Si Quia was married in China to another woman.

"The marriage contracted by a Christian Chinese at the time when Sy Quia was married in the Philippines, was preceded by such formalities, and so many requisites had first to be complied with, that it was difficult, not to say impossible, that in the natural and ordinary course of things the marriage could be performed if there was any impediment at all thereto; and in the case of Sy Quia, not only for many years was he considered in the city of Vigan by the community at large as a bachelor, his name appearing as such in the municipal census, but it must be fairly assumed that when he instituted the proceedings before the civil authorities, and ecclesiastical proceedings in the ecclesiastical court of Vigan, in order to secure permission and authority to marry in accordance with the various decrees then in force, among them the decree of the 20th of December, 1849, he must have positively said then that he was a bachelor, and this fact must have appeared from the summary investigation conducted by the ecclesiastical authorities of Vigan for the purpose of ascertaining whether or not he was a bachelor and free to marry, and when at last the parish priest of Vigan was authorized to proceed with the marriage ceremony, there is little reason for doubt that Petronila Encarnacion, as well as her family, relying upon the result of both proceedings, and upon the license or authority granted by the government, and the authority given by the vicar general in the name of the bishop, for the performance of the marriage, they consented thereto in the best of good faith, particularly Petronila Encarnacion, to the latter's union to Vicente Romero Sy Quia in lawful wedlock.



"If, on the contrary, it were true that Sy Quia had married in China many years before, there is no doubt that he acted in bad faith by deceiving his wife, Petronila Encarnacion, as well as the civil and ecclesiastical authorities of this country, perjuring himself. And upon the assumption that the marriage with Petronila Encarnacion was void by reason of the existence of a prior undissolved marriage, the second marriage, nevertheless, produced its civil effects in favor of the deceived spouse, and of the children born to them, who, notwithstanding the nullity of the second marriage, are in the eyes of the law legitimate, as though they had been born of parents lawfully married.

"Therefore, assuming that Vicente Romero Sy Quia acted in bad faith by concealing the fact of his first marriage at the investigation made by the authorities for the purpose of determining whether or not he was a bachelor and free to marry, one of the civil effects produced by the marriage thus rendered void was that Sy Quia thereby absolutely forfeited all his rights and interest to one-half of the conjugal property appearing in the instrument of partition, Exhibit A. F., and by operation of law all the property which would otherwise have belonged to him, became the property of his wife, Petronila Encarnacion, in accordance with the provisions of the Civil Code applicable to the case in conformity with rule 3 of the transitory provisions.

"Law 16, title 17, Partida 7, with reference to this subject, provides:

"Notorious wickedness is committed by men who knowingly marry twice while their first wife is living, and the same may be said of women who marry twice knowing that their first husband is still alive. *Because such marriages give offense to God, and bring about great damage and dishonor to those who are deceived, and they should be careful to marry well and properly, as directed by the Holy Church, for they otherwise would be married to persons with whom they would later live in sin, and while they endeavor to be happy in their marriage, and have children, the first wife or first husband appears when*

*least expected, and disrupts the marriage, and on account of this rupture many women are dishonored and ruined forever, and men are disgraced in many ways. We, therefore, command that every one who should knowingly enter into such a marriage, in any of the manners specified in this law, be hence banished to some island for five years, and that he forfeit whatever he may own at the place where the marriage was performed, and that it be given to his children or his grandchildren, if he has any, and if he has no children, one-half of such property should go to the person deceived, and the other half to the King's chamber; and if both parties knew that one of them was married, and willfully married him or her, then both shall be banished, each to a separate island, and the property of either of them who may have no children should go to the King's chamber.'"*

Our opponents, at page 61 of their brief, quote all of law 16, above, except the part which we have put in italics. The italicized passage omitted in their brief is essential to a clear understanding of the law in its application to this case. The italicized passage deals with the contingency of the appearance of the first wife or husband, and yet makes no provision for such first wife or husband. This is an answer to the first comment made by our opponents on the above-quoted law at page 61 of their brief.

As to the second argument made by them in regard to the provisions of this law, and in reply to their contention that "it is further perfectly plain that the term 'children or grandchildren' is not limited to the children or grandchildren of the unlawful marriage because the law provides that 'the property of either of them who may have no children shall be forfeited to the Crown,' thus implying that if he or she has children or grandchildren it shall go to them" (citing in their support the opinion of a certain Paz, page 65 of their brief), we shall only say that if the intention or the interpretation of the law were such as they claim, the Civil Code of Spain in force in the Philippine Islands (which em-

bodies the provisions of the above-quoted law) would not have provided at section 1417 as follows:

"ART. 1417. The conjugal partnership expires on the dissolution of the marriage or when it is declared void.

"The spouse who, by reason of his or her bad faith, caused the annulment, *shall not receive any share of the property of the partnership.*"

The law of the Partida above quoted does not refer to the community property of the marriage, but to the private property of either of the spouses, because then, as well as now, the husband or the wife could have their own private property excluded from that known as *gananciales* (community property).

"\* \* \* that the property that husband and wife have acquired, be one-half for each one of them, except that which they should prove to belong to them separately; and so we command that this be taken as the law." Law 4, tit. 4, Book X; of the Novísima Recopilación; Laws of the State, 203, 205, 206, and 207; tit. IV, Book V, of the Ordenanzas Reales de Castilla, and laws 14, 15, 16, 77, and 78 of Toro.

"All the property of the marriage shall be considered as community property, until it is proven that it belongs exclusively to the husband or to the wife." Art. 1407 of the Civil Code.

We submit, therefore, that the quotation from the author Paz (61st consulta, class 9) made at page 65 of appellant's brief does not apply. We confess that we have looked in vain for Paz's work and only have seen it quoted in the case of *Patton vs. Philadelphia*, 1 La. An., 98, from which plaintiffs quote. Paz's consulta might apply to Louisiana, because in that State law 16, title 17, of the 7th Partida was not in force,\* and plaintiffs have not shown that Paz's consulta refers to this law.

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\* (See *Louisiana* "Las Siete Partidas" (Moreau & Carleton, 1820), vol. 2, p. 1223.)

Covarubias, Antonio, Gomez, Molina and the other authors quoted by Paz were only a few of the many commissioners appointed by Philip II to make comments on the canon law with the view of making a new compilation of laws based on their opinions. This compilation is known as the *Nueva Recopilación*, and no law appears therein to such effect. The paragraph of the 61st consulta cited by plaintiffs is an answer to a question, but they do not state what question was propounded to Paz when he wrote his answer. On the other hand, can that consulta apply to the 7th Partida as above quoted when we are told expressly that if the party marrying in bad faith has no children, "let half be for the one who was deceived and the other half for the chamber of the King," and make no provision for the "first wife who appears"?

## V.

### Conclusion.

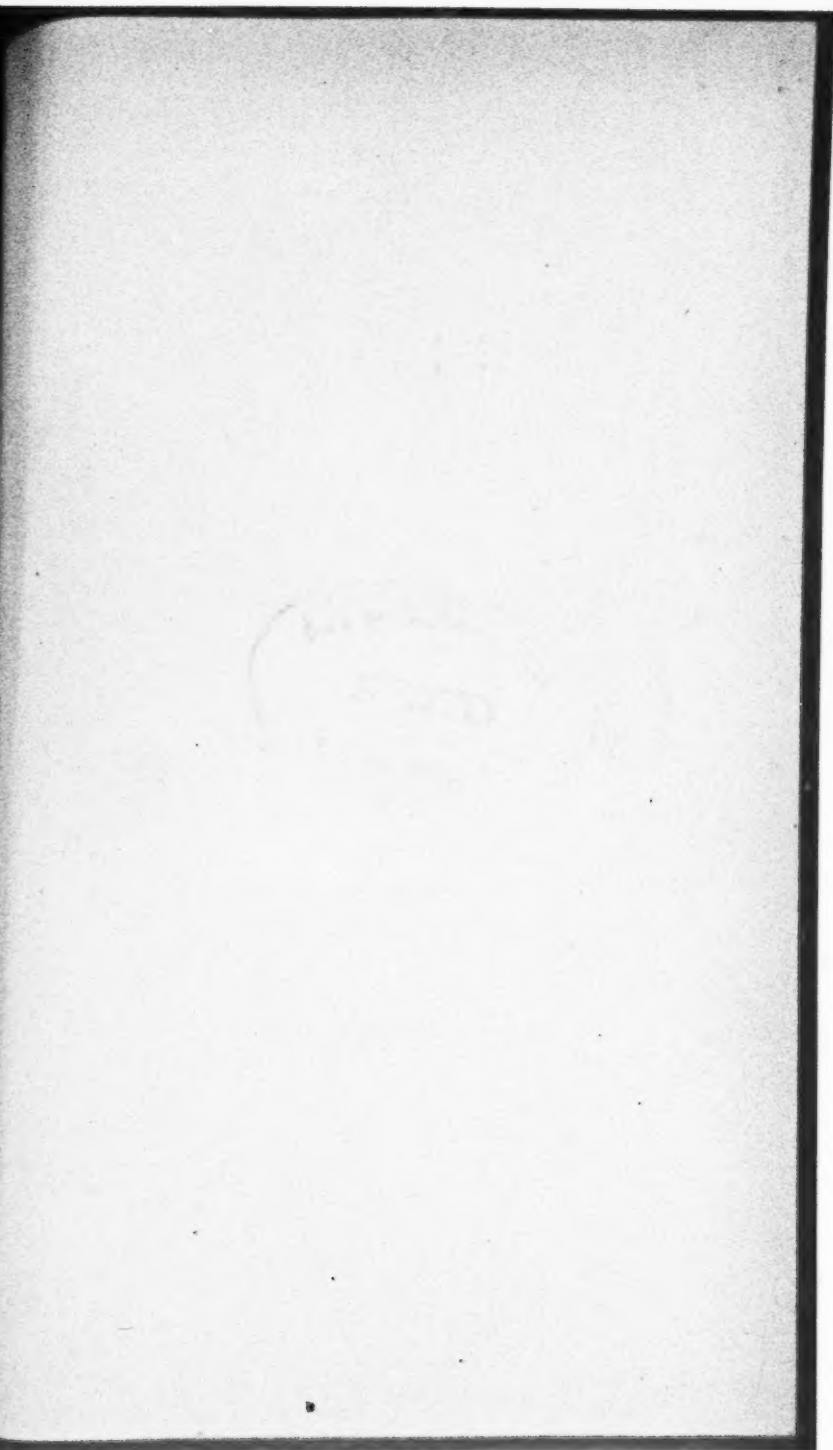
In conclusion we submit that:

- (1.) This case is an action at law, and therefore this court will not entertain the appeal nor retry the findings of fact.
- (2.) The writ of error does not assign any errors of law, but merely seeks to accomplish what only appeal, well taken, can accomplish.
- (3.) The judgment of the Supreme Court of the Philippine Islands was right, both on the law and the facts, and should be affirmed.

Respectfully submitted,

ANTONIO M. OPISSO,  
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*Attorneys for Defendants in Error and Appellees.*



SY JOC LIENG v. GREGORIO SY QUIA.

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE  
ISLANDS.

No. 177. Argued March 7, 10, 1913.—Decided April 14, 1913.

Every presumption is in favor of the validity of a marriage where the marital relations have continued uninterruptedly for over forty years without any question being raised or right asserted by anyone claiming under an earlier marriage of one of the parties until more than ten years after the death, and five years after the distribution of the property, of that party.

The validity of such a marriage should not be impugned except upon clear, strong and unequivocal proof; nor in the absence of such proof will this court reverse the judgment of the lower court sustaining its validity when attacked by those who had opportunity to do so before the death of both spouses.

16 Phil. Rep. 137, affirmed.

THE facts, which involve conflicting claims to the estate of a Chinese merchant domiciled in the Philippine Islands and of the validity of his marriage, are stated in the opinion.

*Mr. Jackson H. Ralston*, with whom *Mr. W. Morgan Shuster*, *Mr. Clement L. Bouvé*, *Mr. Frederick L. Siddons* and *Mr. Wm. E. Richardson* were on the brief, for appellants.



*Mr. Antonio M. Opisso and Mr. James H. Blount* for appellees.

MR. JUSTICE VAN DEVANTER delivered the opinion of the court.

This appeal brings under review a decree of the Supreme Court of the Philippines in a suit involving conflicting claims to the estate of a Chinese merchant domiciled in those Islands and there known as Vicente Romero Sy Quia, who died intestate at Manila in 1894. The appellants, who were plaintiffs in the Court of First Instance, claim as descendants of a marriage between the intestate and Yap Puan Niu, a Chinese woman, said to have been contracted in 1847 at Am Thau, in the Province of Amoy, China. The appellees claim as the descendants of a marriage with Petronila Encarnacion, a Filipino woman, celebrated in 1853 at Vigan, in the Philippines. The principal question here, as in the Insular courts, is whether the proof sufficiently established the Chinese marriage. On this the Insular courts differed, the Court of First Instance finding the marriage adequately proved, and the Supreme Court, one justice dissenting, holding the other way. 16 Phil. Rep. 137. Before coming to the evidence directly addressed to this question it will be well to state the facts about which there is no dispute.

Sy Quia was born at Am Thau, China, in 1822, and went to the Philippines at the age of 12. At first he was located in Manila, but at some time before 1852 went to Vigan and entered the service of a merchant at an annual salary of 200 pesos. During that year he was converted to the Catholic faith and was baptized in the parish church. The next year he married Petronila, the banns being regularly published and the marriage publicly solemnized according to the rites of the church, as a preliminary to which he affirmed under oath, and the civil and ecclesiastical

228 U. S.

Opinion of the Court.

authorities certified after inquiry, that he was then unmarried. Shortly after the marriage he and Petronila took up their permanent home in Manila. They were then without any particular property other than 5,000 pesos which she received from her mother and brought into the conjugal society. He became a merchant, and through their united efforts they accumulated real and personal property amounting at the time of his death to upwards of 600,000 pesos. They lived in a manner becoming the marital state and were universally recognized as husband and wife. Three sons and two daughters were born of the marriage. One of the daughters married and predeceased her father, leaving a son surviving. The other died after the father, leaving the mother as her only heir. Following Sy Quia's death the widow administered the estate, with the aid of the sons, until 1900, when through appropriate judicial proceedings the property was distributed among the widow, sons and grandson as the persons rightly entitled thereto. The present suit was brought in 1905, more than half a century after the marriage, and then for the first time was its validity or its good faith as to either spouse brought in question—a fact which is of particular significance, first, because Yap Puan Niu, the alleged Chinese wife, visited in Manila at the home of a brother of Sy Quia twice during the life of the latter, and, second, because two of the plaintiffs were adults living in Manila at the time of Sy Quia's death and during the eleven years intervening before the suit was brought.

There was testimony, taken by way of depositions in China, tending to show that Sy Quia returned from the Philippines to Am Thau in 1847, when he was 25 years old; that during that year he married Yap Puan Niu, the marriage being properly arranged and celebrated; that he remained at Am Thau three or four years, during which two sons were born of this marriage; that he then returned to the Philippines and Yap Puan Niu continued to reside

at Am Thau, dying there in 1891; that the four plaintiffs are the only living descendants of this marriage, two being grandsons, one a granddaughter, and one a great-grandson. Six of the witnesses in China testified directly to the marriage, and their testimony, if standing alone, would be quite persuasive of its occurrence, notwithstanding some discrepancies in their statements. But this testimony did not stand alone. It was met and contradicted by that of several Filipino witnesses, taken mostly by deposition, to the effect that they had known Sy Quia in Vigan for some years before his marriage to Petronila in 1853, and that he was living there during the period when, according to the opposing testimony, he married Yap Puan Niu and remained in China. One of these witnesses was an aged man, who testified with certainty that he was a student at Manila between 1839 and 1845 and knew Sy Quia there; that he, the witness, was married at Vigan in 1847, and that Sy Quia was living there then. Others of these witnesses gave kindred reasons for their ability to speak with precision concerning Sy Quia's presence at Vigan during the period in question. Still other witnesses gave testimony more or less corroborative of these opposing theories, but it was less direct and was also contradictory.

In addition to this conflicting testimony there was this situation, as before indicated: The Philippine marriage and the forty years of uninterrupted marital life following it were not only established but conceded. While Sy Quia lived the validity of that marriage passed unchallenged and no right was asserted under the one alleged to have occurred in China. More than this, the right of the widow and children of the Philippine marriage to the property acquired during its existence went unquestioned for eleven years after his death and for five years after the judicial distribution of the property.

In these circumstances every presumption was in favor

228 U. S.

Syllabus.

of the validity and good faith of the Philippine marriage, and sound reason required that it be not impugned and discredited through the alleged prior marriage save upon proof so clear, strong and unequivocal as to produce a moral conviction of the existence of that impediment. The conflicting testimony, isolatedly considered, did not measure up to this standard, and clearly it did not do so if proper regard was had for the probative force of the conduct of all the parties concerned during the many intervening years. Then, too, the lips of Sy Quia and Yap Puan Niu had been sealed by death, and this, with the long interval of time, gave unusual opportunity for the use of fabricated testimony, the untruth of which it would be difficult to expose.

Giving due effect to these considerations, we cannot say that the Supreme Court of the Philippines erred in holding that the Chinese marriage was not adequately proved. Indeed, we regard the evidence as not producing a moral conviction of the existence of that marriage, but as leaving the issue in serious doubt. The decree is accordingly

*Affirmed.*

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